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## Letter dated 10 September 1999 from the Permanent Representatives of the Netherlands and the Russian Federation addressed to the Secretary-General

On the instruction of our respective Governments, we have the honour to transmit herewith the text of the report on the conclusions of the centennial of the first International Peace Conference, which emerged from the Expert Meeting held in The Hague on 18 and 19 May 1999 and the International Conference "Centennial of the Russian Initiative: From the First Peace Conference, 1899 — to the Third, 1999", held in Saint Petersburg, Russian Federation, from 22 to 25 June 1999 (see annex), and to request that the present letter and its annex be circulated as a document of the General Assembly under agenda item 154.

(*Signed*) Peter van **Walsum**
Ambassador
Permanent Representative of the Kingdom of the Netherlands

(*Signed*) Sergey **Lavrov**
Ambassador
Permanent Representative of the Russian Federation

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**Annex**

# OUTCOME OF THE CELEBRATIONS OF THE CENTENNIAL OF THE FIRST INTERNATIONAL PEACE CONFERENCE:

# REPORT ON THE CONCLUSIONS

Report presented by the Governments of the Kingdom of the Netherlands and the Russian Federation on the conclusions of the expert discussions on the three "Centennial themes"; Peace Palace, The Hague, 17-18 May 1999, and Smolny Palace, St. Petersburg, 22-25 June 1999

## I. GENERAL OBSERVATIONS

### I.1 Introduction

1. Pursuant to United Nations General Assembly Resolutions 51/157, 52/154 and 53/99,[1] regarding the Action dedicated to the 1999 Centennial of the First International Peace Conference of 1899 and to the closing of the United Nations Decade of International Law, the Governments of the Kingdom of the Netherlands and the Russian Federation called meetings of experts for consideration of the reports and comments pertaining to the themes of the 1899 First International Peace Conference and its 1999 Centennial celebrations: disarmament questions, humanitarian law and laws of war, and peaceful settlement of disputes. These activities were undertaken within the framework of the United Nations Decade of International Law, with a view to serving as a useful basis for carrying the results of the Decade of International Law into the next millennium.

2. The present report has been drawn up under the authority of the chairmen of the meetings at The Hague, the Netherlands, (18-19 May 1999) and St. Petersburg, Russian Federation, (22-25 June 1999) and, in Part II, reflect the outcome of the discussions on the three Centennial themes.[2] The conclusions of the expert discussions do not purport to formulate any particular formal position taken on the matter under discussion, nor are they meant to commit any delegation to a particular point of view. The report is presented by the Governments of the co-hosts "as-is", without prejudice to the position of any delegation.[3]

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1. A/RES/53/99

   1. *Welcomes* the programme of action dedicated to the centennial of the first International Peace Conference, presented by the Governments of the Netherlands and the Russian Federation, which aims at contribution to the further development of the themes of the first and the second International Peace Conference and could be regarded as a third international peace conference;

2. The thematic conclusions were drawn up with the help of the chairmen of the expert discussions.

3. A/RES/53/99

   4. *Requests* the Governments of the Netherlands and the Russian Federation to prepare reports on the outcome of the centennial celebrations at The Hague and St. Petersburg for submission to the General Assembly at its fifty-fourth session, with a view to their consideration at the closing of the United Nations Decade of International Law.

## I.2 Discussions on the Centennial Themes

3. On 18 and 19 May 1999 delegates, legal advisers[4] of United Nations Member States, observer States and of relevant international organisations, assembled at the Peace Palace, The Hague, to consider the legislative and normative aspects of the Centennial themes, contained in the reports conceived and revised[5] by the rapporteurs: Francisco ORREGO VICUÑA and Christopher PINTO on peaceful settlement of disputes, Christopher GREENWOOD on humanitarian law and laws of war, and Hans BLIX on disarmament questions. The Centennial meeting at the Peace Palace was chaired by Hans VAN MIERLO.[6] The opening session was attended by Her Majesty Queen BEATRIX of the Netherlands, patron of the Centennial celebrations at the Peace Palace, Her Royal Highness Princess MARGRIET, chairman of the Standing Commission of the Red Cross and Red Crescent Movement, the Prime Minister, Wim KOK, and the Mayor of the city of The Hague, Wim DEETMAN.

4. Her Majesty Queen BEATRIX marked the long standing commitment of the Dutch Royal Family to the 1899 Peace Conference, which was hosted by her grand-mother, Queen WILHELMINA, and to the 1999 celebration of its Centennial with her presence at the opening session and with a reception at Noordeinde Palace for participants to the expert discussions. In her capacity as Chairman of the Standing Commission, preparing for the 27th International Red Cross and Red Crescent Conference, Her Royal Highness Princess MARGRIET also attended the opening session. This royal presence testifies to the commitment of the Dutch Royal Family and of Dutch society as a whole to the concepts of the international Rule of Law set by the First International Peace Conference, as well as to the position of the city of The Hague as judicial capital of the world, dating back to the days of Queen WILHELMINA. That position was also underlined at the Mayor's reception at the close of the celebrations at The Hague.

5. At the opening session delegates heard speeches[7] by the Secretary-General of the United Nations, Kofi ANNAN; the Minister for Foreign Affairs of the Kingdom of the Netherlands, Jozias VAN AARTSEN; the former Minister for Foreign Affairs of the Kingdom of the Netherlands, chairman of the Organizing Committee, Hans VAN MIERLO; the President of the International Committee of the Red Cross (ICRC), Cornelio SOMMARUGA; the Director-General of the Organisation for the Prohibition of Chemical Weapons (OPCW), José BUSTANI; the Under Secretary-General for

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4. Several States were represented by their Ambassador to the Kingdom of the Netherlands.

5. On the basis of comments posted on http://minbuza.nl/english/conferences/peace_1.html.

6. Former Vice-Prime-Minister and Minister for Foreign Affairs of the Kingdom of the Netherlands, presently Minister of State of the Kingdom of the Netherlands, and Chairman of the Netherlands National Organizing Committee for the Centennial of the First International Peace Conference.

7. Speeches have been forwarded to member/observer States through diplomatic channels and published at the Centennial internet web-site of the Ministry of Foreign Affairs of the Kingdom of the Netherlands: http://www.minbuza.nl/english/conferences/peace_1.html.

Legal Affairs and Legal Counsel of the United Nations, Hans CORELL; the President of the International Federation of Red Cross and Red Crescent Societies (IFRC), Astrid HEIBERG; the Secretary-General of the Permanent Court of Arbitration (PCA), Hans JONKMAN; and the Peace Palace historian, Arthur EYFFINGER.[8] A message from the Vatican was also read.

6. These interventions pointed to the continued need for an international order based on the Rule of Law, and the continued duty of the international community to build peace and to prevent and suppress violations of international rules, which aim at safeguarding peace and human rights, with all appropriate means.

7. The Ambassador of the Russian Federation to The Hague, Alexander G. KHODAKOV, spoke about the Russian initiatives of 1899 and 1999, with regard to the calling of the First International Peace Conference, and to the celebration of the Centennial of that Conference.

8. Sir Ninian STEPHEN and William PACE presented the conclusions of the commemorative session of the Members of the Permanent Court of Arbitration (Peace Palace, 17 May 1999) and of the HAGUE APPEAL FOR PEACE civil society campaign (The Hague, 11-15 May 1999), respectively.

9. On the eve of its one hundredth anniversary the Permanent Court of Arbitration held a commemorative session of its members on 17 May 1999, at which a resolution was adopted. The following operative paragraphs were included in that resolution:

1. Invites Governments of States not Parties to accede to the 1907 Hague Convention for the Peaceful Settlement of International Disputes;
2. Acknowledges the important role of the Government of The Netherlands, as depositary of the Conventions;
3. Invites Governments and International Organizations to include in treaties, agreements and commercial contracts, where appropriate, clauses referring disputes for resolution through fact-finding, mediation, conciliation or arbitration under the auspices of the Permanent Court of Arbitration;
4. Invites Governments, as well as intergovernmental organizations, non-governmental organizations, foundations and others who share a commitment to the peaceful solution of international disputes, to contribute to the Financial Assistance Fund, and to render to the [Permanent] Court [of Arbitration] such financial and other assistance as may be necessary to enable it effectively to maintain and enhance its capacity to administer, promote and assist in the resolution of international disputes, to act as repository of information concerning alternative methods of dispute resolution and, through seminars, conferences, studies and publications, disseminate information relating thereto.

The Chairman of this commemorative session was given the opportunity to present the conclusions of this session at the opening session of the expert meeting.

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8. At the Peace Palace meeting, a third book by his hand was introduced, especially focussed on the 1899 Peace Conference: Arthur EYFFINGER: *The 1899 Hague Peace Conference: The Parliament of Man, the Federation of the World*, published by Kluwer International.

Members of the PCA were encouraged to share their expertise and participate at the expert discussions on 18 and 19 May 1999.

10. On 17 May 1999 the signing ceremony took place of the Additional Protocol to the 1954 Convention on the protection of cultural goods in times of armed conflict[9] in the presence of Colin POWER, Assistant Director-General for Education of UNESCO, Adriaan BOS, Chairman of the Diplomatic Conference, and Lyndel PROTT, Chief of the International Standards Section of the Division of Cultural Heritage of UNESCO. The representatives of States assembled at the signing ceremony heard speeches of Colin POWER and Adriaan BOS, explaining the results of the Diplomatic Conference and the importance of the adoption of this Additional Protocol for the protection of cultural property in times of armed conflict.

11. With a view to the co-ordination of the expert discussions, on 17 May 1999 a meeting was called of the "Friends of 1999" together with the officials of the expert meeting of 18 and 19 May. This meeting was hosted by the Ambassador of the Russian Federation to the Kingdom of the Netherlands.

12. The thematic expert discussions on 18 and 19 May 1999 were chaired by: Dr. Keith HIGHET (peaceful settlement of disputes), Dr. P.S. RAO (disarmament questions), and professor Tim MCCORMACK (humanitarian law and laws of war).

13. The organisation of the Centennial events in the Netherlands benefited greatly from the fact that the Peace Palace, seat of the Permanent Court of Arbitration and the International Court of Justice, was available as venue for expert discussions on the legislative and normative aspects of the Centennial of the First International Peace Conference. A debt of gratitude is due to the CARNEGIE FOUNDATION and its General Director, Willem HAMEL.

14. From 22 to 25 June 1999 delegates, legal advisers[10] of United Nations Member States, observer States and relevant international organizations assembled at the Smolny Palace in St. Petersburg, Russia, to continue expert discussions and consider the implementation aspects of the Centennial themes, contained in the reports conceived and revised by the rapporteurs: Hans BLIX on disarmament questions, Christopher GREENWOOD on humanitarian law and laws of war, and Francisco ORREGO VICUÑA and Christopher PINTO on peaceful settlement of disputes. The Centennial meeting at Smolny was chaired by Anatoly L. KOLODKIN.[11]

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9. 26 States signed the Protocol at the Peace Palace, The Hague, on 17 May 1999: Albania, Austria, Belgium, Cambodia, Côte d'Ivoire, Croatia, Estonia, Finland, Germany, Ghana, Greece, the Holy See, Hungary, Indonesia, Italy, Luxembourg, Madagascar, the Kingdom of the Netherlands, Nigeria, Pakistan, Qatar, Spain (*ad referendum*), Sweden, Switzerland, Syria, Yemen.

10. Several States were represented by their Ambassadors to the Russian Federation.

11. President of the Russian Association of International Law and Association of Maritime Law, Chairman of the National Committee of the Russian Federation on the UN Decade of International Law, Judge at the UN International Tribunal for the Law of the Sea.

15 The president of the Russian Federation, Boris N. YELTSIN sent participants a massage of greetings in which he stressed that, on the eve of the XXI[st] century, the main task is to ensure strict compliance with international law and, in particular, with the Charter of the United Nations. This message testifies to the firm commitment of the Russian Federation to the rule of law in international relations.

16. At the opening session participants heard speeches of the Secretary-General of the United Nations, Kofi ANNAN; the Governor of St. Petersburg, Vladimir A. YAKOVLEV; the Deputy Ministerof Foreign Affairs of the Russian Federation, Serguey A. ORDZHONIKIDZE; the Chairman of the Organizing Committee of the Centennial Meeting in The Hague, Hans VAN MIERLO; the Vice-President of the International Committee of the Red Cross, Pierre KELLER; the Deputy Secretary-General of the Permanent Court of Arbitration, Phyllis HAMILTON; the Vice-President of the International Federation of Red Cross and Red Crescent Societies, Luidmila G. POTRAVNOVA; and the President of the HAGUE APPEAL FOR PEACE, Cora WEISS.

17. These interventions stressed the need for strengthening the role of international law. They pointed out the continued duty of each state or group of states to strictly comply with the rules of international law, since it was a *conditio sine qua non* for maintaining peace and security, preventing and suppressing violations of norms of international law and safeguarding human rights.

18. The thematic expert discussions were held from 22 to 25 June 1999 and were chaired by: Jaap RAMAKER (disarmament questions), Hans-Wilhelm LONGVA (international humanitarian law and laws of war) and P. S. RAO (peaceful settlement of disputes).

19. The organization of the Centennial events in Russia benefited greatly from the fact that Smolny, seat of the St. Petersburg's Administration, was available as venue for the expert discussions on the implementation aspects of the themes of the Centennial of the First International Peace Conference. A debt of gratitude is due to the administration of St. Petersburg and to the Governor of St. Petersburg, Vladimir A. YAKOVLEV.

20. The revised reports discussed at these meetings, the conclusions of the discussions pertaining to each of those reports and the follow-up given to those conclusions will be published by Professor Frits KALSHOVEN, editor in chief of THE CENTENNIAL OF THE FIRST INTERNATIONAL PEACE CONFERENCE: REPORTS AND CONCLUSIONS.[12]

12. To be published by Kluwer Law International in co-operation with UNITAR.

## I.3 Non-Governmental Participation

21. Close co-ordination was called for between the organisers of the governmental expert meetings at the Peace Palace (18-19 May 1999) and the non-governmental HAGUE APPEAL FOR PEACE citizens' conference a week earlier (11-15 May 1999).[13] As representative of the host country, the Minister for Foreign Affairs of the Kingdom of the Netherlands was present at the opening and closing sessions of the HAP and delivered one of the key note speeches. Representatives of the HAP were invited to present the conclusions of the NGO campaign at the opening session of the governmental meetings and to take part in the expert discussions.[14] At the HAP citizens' conference the "Hague Agenda for Peace and Justice for the 21st Century" was adopted,[15] which includes the following campaigns:

- to abolish nuclear weapons;
- global action plan for the abolition of war;
- international action network on small arms;
- implementation of the landmine treaty;
- ratification of the ICC statute;
- to stop child soldiers;
- for peace education at all levels; and
- against poverty.

22. The early ratification and entry into force of the Rome Statute of the International Criminal Court; opened for signature at Rome on 17 June 1998[16] was also referred to frequently during the governmental expert discussions. References to small arms and landmines were frequently made, whereas nuclear disarmament also figured prominently in the governmental expert discussions in The Hague and St. Petersburg. The dialogue between governmental and non-governmental experts was open and constructive, both thematically and organizationally.

## I.4 General organizational matters

23. As endorsed by consecutive resolutions of the General Assembly,[17] the co-hosts of the centennial celebrations, the Kingdom of the Netherlands and the Russian Federation, had, in the earliest stages of their preparations,[18] agreed that these

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13. See the Hague Appeal for Peace internet web-site: http://www.haguepeace.org.
14. Due to Peace Palace seating restrictions five NGO experts were invited to the discussions on each of the "Hague themes".
15. A/54/98.
16. A/CONF.183/9.
17. Referred to at the top of this document, para. 1.
18. From those earliest stages the factual organization of the Centennial of the First International Peace Conference was in the hands of Thijs BÜCHLI of the Ministry of Foreign Affairs of the Kingdom of the Netherlands and Serguey V. CHATOUNOVSKY BYRNOUGH of the Ministry of Foreign Affairs of the Russian Federation.

celebrations should, on the one hand, not interfere with the mandates and efforts of contemporary international fora which might be considered heirs to the 1899 Peace Conference, while, on the other hand, the centennial debates on the Centennial themes should be meaningful and comprehensive, as well as universally carried.

24. Consequently, a four phased format was chosen, starting with expert reports on each of the Centennial themes,[19] followed by expert discussions on those reports at relevant global,[20] regional,[21] national[22] and even individual levels. In order to facilitate these exchanges and discussions, an Internet web-site[23] was created, enabling arguments to be exchanged freely without the need for extensive mailing or labourious coordination.

25. In the third phase, experts met in The Hague, the Netherlands, and in St. Petersburg, Russia, for consideration of the reports on the Centennial themes, as revised taking into account the outcome of the various discussions as reflected at the Internet web-site. These expert meetings refrained from taking political decisions, allowing for frank, open and in-depth discussions of the topics at hand. The conclusions of the expert meetings were faithfully recorded by experts from the co-hosts,[24] and are reproduced in Part II, below.

26. The fourth phase called for the conclusions of these expert meeting to be forwarded to the relevant international fora for consideration in accordance with their respective mandates.[25] The present document serves that purpose.

27. As emblem of the Centennial of the First International Peace Conference the ancient Egyptian hieroglyph of *ma-at* was chosen to underline the long lasting heritage of the 1899 Peace Conference. Symbolized in the oldest written language, *ma-at* represented the divine majesty of the rule of law and cosmic harmony, and was heralded as foundation of the earliest civilization known to man.

28. In the implementation of this innovative decentralized conferencing format ("roaming conference") certain aspects had to be taken into account.

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19. Originally, two rapporteurs were invited for each of the Centennial themes. Two rapporteurs decided to issue a joint report, whereas two other rapporteurs were not in a position to finalize their reports.

20. *e.g.* seminar on dispute resolution, London.

21. *inter alia*: Inter-American Juridical Commission, Rio de Janeiro; Asian-African Legal Consultative Committee, New Delhi; Asia-Pacific Region Centennial Conference, University of Melbourne; for a complete list of Centennial related activities, see A/C.6/53/11.

22. *e.g.* by the Netherlands Advisory Board on International Legal Affairs, by the Foreign and Commonwealth Office, United Kingdom, and by the Treaties Bureau of the Ministry of Foreign Affairs of the Republic of Korea.

23. http://www.minbuza.nl/english/conferences/peace_1.html, click on "downloaded".

24. As verified by the chairmen at the thematic discussions and presented by the national chairmen at the concluding plenary sessions.

25. As for the United Nations: cf. Article 13 of the Charter:
13 (1) The General Assembly shall initiate studies and make recommendations for the purpose of:
a. [...] encouraging the progressive development of international law and its codification; [...].

29. Due to the innovative character of the conferencing model, the various expert conferences had to be made aware of their special role in the chain of Centennial activities. Moreover, it was felt that regional comments deserved to be collected by the co-hosts, rather than to be delivered to the Executive Secretariats. To these ends the rapporteurs and representatives of the co-hosts attended (or were represented at) those conferences as observers. This approach has yielded very positive results.[26] These visits had implications for the respective agenda's and travel budgets.

30. Certain expert conferences had some difficulties in including consideration of the reports on the Centennial themes in their current schedule of meetings. Since most of these schedules operate on an annual basis, the reports and the invitation for their consideration might have been issued a year earlier. This would have allowed preparatory expert conferences and seminars to include such considerations in their regular schedule more easily. On the other hand, such long period of discussions might have lead to the loss of political momentum. The co-hosts of the Centennial celebrations are grateful to officials of and participants to these expert conferences for their flexibility in this respect.

31. As a consequence of tights scheduling of regional expert conferences, only very little time was left for the rapporteurs to revise their initial reports in the light of the comments made in respect of these reports. Only by their strenuous efforts and dedication have they been able to finalize the revision of their reports in time. The co-hosts cannot but express their profoundest gratitude to the rapporteurs for all their efforts.

32. The establishment of the "Friends of 1999"[27] platform allowed the co-hosts to verify their ideas as to the organisation and coordination of the Centennial events with interested delegations and relevant international organisations, both governmental and non-governmental, thus ensuring broad support both at United Nations level, at the regional levels, as well as among civil society. Co-ordination meetings were called during General Assembly sessions and intersessionally.

33. With regard to possible future use of this decentralized conferencing format, the co-hosts of the 1999 centennial celebrations would like to draw attention to the following specific aspects and caveats.

1. Careful consideration as to which topic(s) might be suitable for decentralized preparatory consideration;
2. Clear coordination with and separation of mandates in relation to the international institution(s) bearing primary responsibility for the subject-matter at hand;

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26. The appendix lists all documents distributed on the Internet Centennial web-site.

27. Australia, Austria, Brazil, Chile, Cyprus, Denmark, Egypt, France, Ghana, India, Indonesia, Malaysia, Mexico, the Kingdom of the Netherlands, Nicaragua, Poland, Republic of Korea, Russian Federation, Senegal, South Africa, Sri Lanka, Switzerland, Thailand, Trinidad and Tobago, Ukraine, United Kingdom of Great Britain and Northern Ireland, Permanent Court of Arbitration, International Court of Justice, International Committee of the Red Cross, Carnegie Foundation, Hague Appeal for Peace.

3. Visible advantage of broadening participation of discussions;
4. Definite and long term commitment of the hosting government(s) and/or institution(s) to the organizing of such events, both in terms of maintaining the political momentum, and of the availability of money and personnel.[28]

# II. CONCLUSIONS ON THE CENTENNIAL THEMES

34. The conclusions of the discussions on the Centennial themes refer to the revised report, and are, consequently, best read in conjunction with these reports. Since discussions were held under time constraints, not all points raised by the introductory speakers were actually discussed; whereas certain participants did not have the opportunity to express themselves on the points they would have liked to bring up.

## II.1 Disarmament questions

35. The expert discussions on the legislative and normative aspects of disarmament questions had under consideration the revised report by Dr. Hans BLIX.[29] The discussions in The Hague were chaired by Dr. P. S. RAO,[30], those in St. Petersburg by Jaap RAMAKER,[31]who, each, also introduced the conclusions at the final plenary sessions. The discussions were opened with the introduction of the revised report[32] and, in The Hague, with comments by Dr. Julie DAHLITZ[33]; in St. Petersburg by B. R. TOUZMOUKHAMEDOV.[34] Delegates identified the following elements and drew the following conclusions as to this Centennial theme.[35]

INTERNATIONAL CONTEXT

36. The view was expressed that, although since the end of the Cold War new opportunities in the field of disarmament and arms control had led to significant results and substantial reductions in over-all military budgets, the euphoria, that seemed to exist in the early 1990's and which was reflected in the report, had swiftly evaporated and that, at present, the disarmament process seemed to slow down, the level of armament still causing unacceptable financial burdens on society.

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28. *e.g.* national celebrations of a major event with international dimensions.
29. Director-General Emeritus of the IAEA.
30. of India, chairman of the AALCC-meeting; New Delhi, February 1999.
31. Ambassador of the Kingdom of the Netherlands.
32. Due to circumstances which prevented Director-General Emeritus BLIX from attending the Peace Palace meeting,, Ambassador Jaap RAMAKER of the Kingdom of the Netherlands took his place in the discussions.
33. Co-ordinator of CIDIR, organizer of the London seminar, December 1998.
34. Constitutional Court of the Russian Federation.
35. The chairman of the discussions on disarmament questions drew the attention of experts to the specific views expressed at regional conferences, notably the AALCC-meeting in New Delhi of February 1999.

INTERNATIONAL LAW / UNITED NATIONS

37. Views were expressed that disarmament and arms control efforts were conducted in a fragmentary way and that the universal application of international law in disarmament matters did not play the role it perhaps should. More over-all direction and co-ordination would seem warranted in this respect. In this regard, discussions on the international legal aspects of disarmament and security matters within the Sixth Committee of the United Nations General Assembly were also suggested.

38. A number of participants expressed the view that both legitimacy and success of international actions require that such action be decided upon or authorized by the United Nations. At the same time, the view was expressed that discussions are needed within the United Nations as to which reforms could strengthen the United Nations' capacity to cope, on behalf of the international community, with possible violations of agreements on disarmament and arms control, e.g. by enhancing the Security Council's effectiveness by making it more representative while reducing the use of veto, by giving a greater role to regional organizations, and/or by establishing military rapid deployment forces of the United Nations.[36]

REGIONAL SECURITY ORGANIZATIONS

39. The view was expressed that greater emphasis should be placed on the role of regional arrangements and agencies,[37] as envisaged under Chapter VIII of the UN Charter using political rather that military tools for conflict resolution.

NUCLEAR DISARMAMENT/NON-PROLIFERATION

40. The need for further progress in nuclear disarmament and in particular in implementation of Article VI of the Nuclear Non-Proliferation Treaty (NPT) was stressed.

41. Some expressed the opinion that the Conference on Disarmament should start work within a special subcommittee, aimed at nuclear disarmament. Nuclear disarmament, according to some, should take place within a time-bound framework, while others expressed the view that nuclear disarmament did not lend itself to be confined within such a time-bound framework. The latter view held that a step by step approach to nuclear disarmament was the only realistic and viable approach.

42. The importance was stressed of early ratification and entry into force of START 2 Agreement and early start of negotiations on START 3 to further reduce the nuclear arsenals of the United States and the Russian Federation, while some others stressed that the progress in bilateral negotiations should not be stopped by blockage in one area.

43. Some believed that the progress in nuclear disarmament will require rejection of the nuclear deterrence principle.

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36. See also speeches delivered at the ceremonial opening of the Peace Palace meeting.

37. Such as OSCE.

44. The need for the early entry into force of the Comprehensive Test Ban Treaty (CTBT) as an important step towards nuclear non-proliferation and disarmament was generally felt.

45. Some suggested that nuclear weapons should be taken off alert status and be withdrawn to the territories of the nuclear states to which they belong.

46. The need for an urgent start of substantive negotiations within the Conference on Disarmament on a Fissile Material Cut-off Treaty (FMCT) was widely supported.

47. A view was expressed that the closure and monitoring of the nuclear weapons infrastructure should begin at the earliest possible time in the process of nuclear disarmament.

48. The need for an effective mechanism to monitor the irreversibility of the process of nuclear disarmament was underlined.[38]

49. In connection with obligations under the NPT a number of participants pointed out the need for unhampered transfer of technology and funds for peaceful uses of nuclear energy to developing countries.

50. A suggestion was raised for a study on nuclear weapon free zones or zones free of weapons of mass destruction in areas of special tension, like the Middle East and South Asia. A call was made for nuclear weapon states giving suitable support to such zones.

### ANTI-BALLISTIC MISSILES

51. The need to control and regulate development and proliferation of missile technology was indicated.

52. A number of participants emphasized the key role of the Anti Ballistic Missiles (ABM) Treaty of 1972 as a corner stone of strategic stability in the world, and a pre-requisite for further nuclear weapons reduction. Some expressed the opinion that the Theatre Missile Defence project could seriously jeopardize the viability of the ABM Treaty.

### NON-PROLIFERATION OF MISSILES AND MISSILE TECHNOLOGY

53. The proposal was made that negotiations should be undertaken within the Conference on Disarmament on a multilateral convention on the non-proliferation of missiles and missile technology.

### BIOLOGICAL AND CHEMICAL WEAPONS

54. Various participants emphasized the importance of early completion of an effective Protocol regarding verification of the Biological and Toxin Weapons Convention (BTWC) as well as of effective implementation of the verification measures under the Chemical Weapons Convention (CWC).

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38. "Trilateral initiative": the ongoing IAEA-Russia-US efforts to put nuclear weapons material withdrawn from nuclear weapons under IAEA verification could constitute a good example of such mechanism.

55. A view was expressed that both the BTWC and the CWC should reflect a true balance between gains and sacrifices, in particular for developing countries. It was also mentioned that the influence of stakeholders (like biotechnical industry) in negotiations should not lead to a weakening of verification regimes.

ANTI-PERSONNEL LANDMINES

56. A number of participants stressed that ratification of the Ottawa Convention on Anti-Personnel Landmines should be accelerated. Attention was also paid to the importance of Protocol II to the Conventional Weapons Convention of 1980.

CONVENTIONAL ARMS / SMALL ARMS

57. Particular attention was paid to small arms, as this category of weapons had been responsible for most casualties in recent conflicts. It was recognized that there was no one simple solution to this problem; although various recommendations were made:

1. the scope of the UN weapons register might be extended to include small arms;
2. more attention should be paid to the illicit trafficking of weapons and the arsenals of small arms; links with international humanitarian law and human rights law were warranted in this respect;
3. an international code of conduct might be developed, including, *inter alia*, criteria for export of small arms, in addition to existing regional arrangements;

58. With regard to conventional weapons in general, it was noted that:

1. development of new weapons should be in conformity with international humanitarian law;[39]
2. States were invited to give consideration to the criteria developed by the ICRC in its SIrUS project;[40]
3. the importance was stressed of ratification of Protocol IV[41] to the Conventional Weapons Convention.

59. Some participants felt that there is a need to extend and strengthen the UN Arms Register to cover small arms.

60. Some emphasized the need for the early conclusion of an agreement to adapt the Treaty on Conventional Armed Forces in Europe.

CONFERENCE ON DISARMAMENT

61. A well-functioning Conference on Disarmament (CD) was considered of great importance for the future of multilateral arms control and disarmament. Important results had been achieved by the CD in recent years with the conclusion of the Chemical Weapons Convention and the Comprehensive Test Ban Treaty. However, views were expressed that, in order to secure the CD's position as an important forum for multilateral arms control and disarmament, its working procedures need to be revised:

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39. In this respect it was questioned in general whether humane use of modern weapons was possible at all.

40. Helping to assess which weapons by their design cause superfluous injury or unnecessary suffering.

41. On blinding laser weapons.

1. the consensus rule on procedural matters should be modified;
2. the practice of yearly renewal of mandates of existing ad-hoc committees should be abandoned; and
3. the possibility should be created to establish preliminary committees to discuss possible mandates for future negotiations.

CONTROL / VERIFICATION MECHANISMS

62. Views were expressed that there is a need for exchange of experience between various control mechanisms of the existing and future multilateral legal instruments in the field of non-proliferation and disarmament, *inter alia* NPT, CTBT, CWC, BTWC. One should also bear in mind the aspect of cost effectiveness and control techniques.

63. Verification and compliance are essential to the further progress in disarmament. Verification is not an aim in itself, but without adequate verification, progress in disarmament is not very likely.

CIVIL SOCIETY

64. The view was expressed that civil society could play a greater role in, what was called, "societal verification" of nuclear weapons free regimes ("whistleblowing") and in disarmament negotiations.

65. The view was also expressed that the international community should pay more attention to the protection of peace activists.

66. Some recommended that civil society should be allowed access to various forums, negotiating nuclear and other disarmament and arms control treaties.

GENERAL REMARKS

67. A plea was made for a war-free future, and a transformation of the culture of war into a culture of peace and consultation. In this regard, special attention was called to the recognition of the role of civil society. The view was also expressed that attention be given to ways and methods to diminish the wishes of states to possess and acquire weapons.

## II.2 Humanitarian law and laws of war

68. The expert discussions on humanitarian law and laws of war had under consideration the revised report by professor Christopher GREENWOOD.[42] The discussions at The Hague were chaired by professor Tim MCCORMACK,[43]; those at St. Petersburg by Hans-Wilhelm LONGVA,[44] who, each, also introduced the conclusions at the final plenary session. The discussions were opened with the

42. of the United Kingdom, London School of Economics.

43. of Australia, organizer of the Asia-Pacific Centennial conference, Melbourne, February 1999.

44. Legal Adviser of Norway.

introduction of the revised report and with comments by professor Georges ABI-SAAB[45] at The Hague and Y. M. KOLOSOV[46] at St. Petersburg.

69. The sessions noted with approval the recent adoption of a new Protocol to the 1954 Hague Convention on Cultural Property, the Ottawa Landmines Convention and the Rome Statute of the International Criminal Court. In the light of these developments, there was agreement with the Rapporteur's general proposition that the urgent need was for measures to promote compliance with existing law rather than for new laws, although some development of existing law remained desirable.

70. Delegates identified the following elements and drew the following conclusions.

IUS IN BELLO, IUS AD BELLUM

71. Acts of warfare must not only to be in conformity with relevant rules of the laws applicable in armed conflict; they must also be necessary for and proportionate to the achievement of objectives permitted under international law. There was a difference of opinion regarding the circumstances under which the use of force might be permitted, in the context of which repeated reference was made, *inter alia*, to the UN Charter as sole basis for the use of force. There was, however, agreement that the use of force in all circumstances must meet these requirements of necessity and proportionality. The implications of this principle on features such as the duration and geographical delimitation of hostilities and the choice of targets and means and methods of warfare, including their long-term effects, must have the close attention of political and military decision makers.

NEUTRALITY

72. In particular, the impact of armed conflict on relations between parties to the conflict and neutral parties should be made the object of further study as a matter of priority.

NAVAL WARFARE

73. The law of naval warfare as stated in the Conventions of 1907 being largely outdated, a full-scale revision of this body of law may be called for. The 1995 *San Remo Manual on International Law Applicable to Armed Conflicts at Sea* provides a starting point for such revision. A diplomatic conference on the subject should, however, only be convened after further thorough preparation and with the active support of major naval powers.

BELLIGERENT OCCUPATION

74. While in general the law of belligerent occupation, as elaborated in the 1899 (1907) Hague Regulation on Land Warfare, the 4th Geneva Convention of 1949 and Additional Protocol I of 1977, may be regarded as sufficiently elastic to allow for a degree of adaptation to changing circumstances in society, any such adaptation must

45. of Egypt, former Centennial rapporteur.

46. Moscow State Institute of International Relations of the Ministry of Foreign Affairs of the Russian Federation

respect the core principle that, even in the event of a prolonged occupation, the occupying power may not exploit the occupied territories for the benefit of its own population. By contrast, the provisions of the Hague Regulations on the taking of property in occupied territories are deemed so archaic as to warrant an enquiry into the possibility of modernization of those rules.

UNITED NATIONS MILITARY OPERATIONS

75. There was an extensive discussion of the law applicable to UN military operations and responsibility for acts of UN forces.[47] To achieve the highest possible level of conformity of United Nations military operations with applicable principles and rules of international humanitarian law, the legal instruments applicable to such operations need to be reconsidered. In particular, priority should be given to:

1. clarification of the circumstances in which a United Nations force is to be regarded as a party to an armed conflict and reconfirmation that such United Nations force, under such circumstances, is subject to the whole of international humanitarian law; and, as a minimum,
2. extending the greatest possible content to the obligation to observe the principles and spirit of humanitarian law in cases in which a United Nations force is not a party to an armed conflict, but nevertheless engaged in hostilities.

INTERNAL ARMED CONFLICTS: SCOPE

76. International humanitarian law applicable in internal armed conflicts binds both the government and other parties to such conflicts. While Additional Protocol II of 1977 has been given a higher threshold of application as compared to Article 3 common to the Geneva Conventions of 1949, this higher threshold does not really appear warranted. Accordingly, to enhance the protection afforded to those not taking part in hostilities in a situation of an internal armed conflict, the international community should undertake steps:

1. to set the threshold for the application of Protocol II at the same level as presently applied under the terms of common Article 3;
2. to ensure that the resulting lower threshold is faithfully applied in all cases (notwithstanding reluctance of governments in recognizing the existence of a situation of internal armed conflict);
3. to recognize the relationship between the law of internal armed conflict and the law of human rights, for example by identifying applicable common standards.

INTERNAL ARMED CONFLICTS: SUBSTANTIVE LAW

77. Many principles applicable in international armed conflicts - on the protection of the wounded and sick, the protection of the civilian population from the effects of hostilities and the law of weaponry - should be applicable in internal armed conflicts. One way to achieve this, is through the development of customary law. The enquiry, undertaken by the International Committee of the Red Cross, into the content of customary international humanitarian law especially as applicable in internal armed conflicts, may be expected to clarify the state of affairs in this regard.

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47. Note by the co-hosts: cf. Secretary-General's Bulletin: Observance by United Nations forces of international humanitarian law (ST/SGB/1999/13 of 6 August 1999).

It may also provide the basis for efforts towards a more systematic revision of the law.

## COMPLIANCE

78. The record of compliance with the law of armed conflict urgently needs to be improved. This would require:

1. measures to be taken in time of peace;
2. preventive measures to be taken in armed conflict;
3. measures at national and international level to repress violations of international humanitarian law.

79. Important practical steps which would contribute to enhancing compliance with international humanitarian law and which all states and other relevant entities should be encouraged to take included the following:

1. Measures of education and training designed to ensure that the principles of international humanitarian law are widely understood and to create a "culture of compliance" with international humanitarian law;
2. Practical preparation for armed conflict, such as the establishment of mechanisms for handling Prisoners of War and civilian detainees; and in time of armed conflict, constant awareness of the need to apply the rules of international humanitarian law to concrete cases;
3. The adoption of the legislative and administrative mechanisms necessary to enable states to comply with their obligations to prosecute and punish grave breaches of the Geneva Conventions and Protocols;
4. Enhancing the role of external monitoring during armed conflict, in particular:
   a. encouraging all states involved in armed conflict to nominate, and to accept the nomination of, protecting powers;[48]
   b. reaffirming and strengthening the right of initiative of the ICRC;
   c. encouraging all states to accept the competence of the International Fact-Finding Commission[49] and all parties to armed conflicts to make use of the Commission. The competence of the Commission to perform its functions in internal armed conflicts should formally be recognized;
   d. having recourse to the monitoring mechanisms of human rights conventions.
5. Considering, the possibility of establishing, in regions of conflict, areas for the protection of civilians and other qualified persons ("protected areas"), either as "humanitarian zones" in accordance with the relevant provisions of the 1949 Geneva Conventions and Additional Protocol I of 1977, or as militarily enforced "security zones"; in the latter case, on the basis of a clear understanding regarding (I) the demilitarization of such areas and (II) the level of protection to be accorded to them.
6. Encouraging all states to honour their obligations to prosecute and punish violations of international humanitarian law wherever and whomsoever they are committed.
7. Encouraging all states to ratify the Statute of the International Criminal Court and to participate fully in its work.

80. It was noted that the Rome Statute of the International Criminal Court also applies to crimes within the jurisdiction of the Court when committed in the context of an internal armed conflict.

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48. cf. Article 8 of the Geneva Conventions I, II and III, Article 9 of Geneva Convention IV, Article 5 of Additional Protocol I.

49. established pursuant to Article 90 of Additional Protocol I.

81. In addition, those participating in the discussions considered that thought should be given to developing

1. a system of reporting in which states give notice of the steps taken in peacetime to comply with their obligations under international humanitarian law;
2. an individual complaints mechanism.

## II.3 Peaceful settlement of disputes

82. The expert discussions on peaceful settlement of disputes had under consideration the revised report by professor Francisco ORREGO VICUÑA[50] and Dr. Christopher PINTO.[51] The discussions in The Hague were chaired by Dr. Keith HIGHET,[52] those in St. Petersburg by Dr. P. S. RAO, who, each, also introduced the conclusions at the final plenary session. The discussions in The Hague were opened with the introduction of the revised report and, in The Hague, with comments by Judge Gilbert GUILLAUME[53]; in St. Petersburg by K. G. GUEVORGUIAN.[54] Delegates identified the following elements and drew the following conclusions as to those elements from a legislative and normative perspective.

### PREVENTION AND RESOLUTION

83. Attention should be given to continuing to develop appropriate methods of resolving international disputes. To the greatest extent possible, disputes should be prevented from occurring or continuing, and to this end the institutionalization of new techniques of assisting this process would be useful. On the other hand, the flexibility of ad-hoc solutions should not be lost in the process of too much institutionalization of mechanisms for the peaceful settlement of disputes.

84. Care must be taken to develop existing institutions and not to create new institutions for their own sake. A balance should be struck between the optimal use of existing mechanisms and considering the establishment of new machinery. The fact that available mechanisms do not function properly might be caused by the lack of political will, rather than by inherent deficiencies of such mechanisms.

85. Peace and security are not necessarily achieved by techniques of "dispute resolution" as such. The role of the judiciary, after all, is limited to deciding on particular cases, rather than developing law or institutions.[55] On the other hand, the view was expressed that the role of the International Court of Justice was becoming increasingly normative.

86. The peaceful solution of disputes depended in final analysis on the strict compliance with the principles of non-use of force and sovereign equality of states.

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50. University of Santiago de Chile.
51. Secretary-General of the US-Iran Claims Tribunal.
52. of the USA, chairman of the IAJC expert conference, Rio de Janeiro, August 1998.
53. Judge at the International Court of Justice.
54. Deputy Legal Adviser at the Russian Ministry of Foreign Affairs.
55. See also below: Codification of international law.

87. It was emphasized that the proliferation of actors on the international scene should not detract from the primary function of international law, which is, and should remain, the regulation of inter-state relations.

NEGOTIATIONS AND CONSULTATIONS

88. Negotiation and consultation are considered to be, still, the most fruitful methods of dispute resolution. It must be remembered that specific legal and political methods of dispute resolution are both part of a larger picture.

89. The obligation to continue to seek peaceful solution to disputes remains, even after negotiations break down.

90. Third party intervention does not prevent negotiations continuing simultaneously.

PERMANENT COURT OF ARBITRATION

91. The Permanent Court of Arbitration's services for dispute resolution are available both under the traditional terms of the 1899 and 1907 Hague Conventions for the Pacific Settlement of International Disputes, and as part of a global "alternative dispute resolution" system.[56] Its new Rules[57] give the Court broad competence.[58]

92. The Security Council should also consider referral to the Permanent Court of Arbitration, when making recommendations under Article 36, para. 1, of the Charter, given the Court's broad competence.

INTERNATIONAL COURT OF JUSTICE

93. Universal acceptance of the compulsory jurisdiction of the International Court of Justice[59] was perceived as a long term goal. For this to be achieved:

1. existing problems of requesting interim measures of protection should be solved;
2. due regard should be had to potential abuse of the system;
3. solutions should be found for the high costs of, and length of time involved with litigation.

94. Caution was expressed with regard to possible unexpected results from the formation of Chambers,[60] for example the possible imbalance in the assignment of judges.

95. Diverse and strongly felt views were expressed with regard to possible enlargement of the bench of the Court.

96. The Court's Trust Fund deserves further support.

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56. "Alternative dispute resolution" is proposed by the rapporteurs as supplementary to the public court system for the administration of international justice.

57. Available at http://www.law.cornell.edu/icj/pca/eng/home.html; see also operational para. 4 of A/RES/53/100.

58. Already, the Permanent Court of Arbitration acts to "rescue" stalled alternative dispute resolution under the UNCITRAL Rules.

59. cf. Article 36, 2 of the ICJ Statute.

60. Allowing for a greater work load of the Court.

97. Broad support was expressed for increasing the resources of the Court,[61] for example by providing well-trained professional assistance to the International Court of Justice, although care should be taken in the selection process of such personnel.

98. With regard to the suggested broader access to the Court, it was pointed out that there is precedent for Non-Independent States as parties to the Statute.

99. An emerging trend was recognized for accepting the need for international organizations to have access to the Court.

100. The need was felt for careful consideration of various aspects of the expansion of the advisory function of the Court and its complex consequences, e.g.:

1. channel for a possible *actio popularis*;[62]
2. possible introduction of an "Advocate-General" at the Court, especially in connection with a possible *actio popularis*;
3. possible filtering of requests for advisory opinion, e.g. by an "Independent Committee of Jurists";
4. referrals to the Court by other tribunals or by regional organizations.[63]

101. Attention should be given to the issues arising from the bilateral nature of litigation in cases involving *erga omnes* obligations.[64]

102. The possibility of division of cases into small and large, or important and less important matters, drew spirited debate.

## ROLE OF SECURITY COUNCIL AND SECRETARY-GENERAL

103. The role of the Security Council and/or the Secretary-General[65] in reducing tension and dispute prevention should be further developed.

104. The role of the Security Council in the maintenance of international peace and security in the context of the United Nations dispute settlement function should be enhanced, particularly by developing fact-finding and other activities.

105. Members of the Security Council should discharge their responsibilities for the Council's primary responsibility for international peace and security by seeking agreement and taking the appropriate decisions within the Council. Some referred, in this connection, to the Council's practice in the early 90's.

106. For the Security Council to be able credibly to perform such functions as representative of the international community, enlargement of the membership of the Council was advocated by some.

107. The effectiveness of the various settlement methods employed in early phases of a dispute might be enhanced by ensuring an automatic or expedient transition from Chapter VI to Chapter VII of the Charter. Activities under these Chapters should be better correlated with UN bodies focussing on the prevention of disputes.

108. In this connection attention was drawn to the sometimes disastrous effects of economic sanctions on the civilian population. Others advocated entrusting peace

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61. Note by the co-hosts: see in this respect: Annexes to "Report of the International Court of Justice: 1 August 1997 - 31 July 1998" (A/53/4).

62. Caution was expressed about possible politicization.

63. As suggested by the rapporteurs; not specifically discussed.

64. cf. *Barcelona Traction, Light and Power Company, Ltd* case, ICJ Reports 1970, p. 3: para's 33 and 34.

65. See also below, Permanent Conciliation Committee.

keeping solely to United Nations contingents, to be put at the Organization's disposal in advance.

109. On the other hand, the opinion was also voiced that compliance might best be induced by also including incentives, notably at the economic level.

REGIONAL COURTS

110. More frequent recourse to regional courts would facilitate the coherence and uniformity of regional community law, which often shows a greater measure of compliance than general dispute settlement systems.

111. As to suggestions for regional courts to apply general international law, regional instruments, such as the Pact of Bogotá and the Latin American Collective Security Arrangements, should be carefully regarded. In this respect the idea was advanced, that regional courts should be somewhat specialized in their activities, so as not to compete with the International Court of Justice in the application of general international law.[66]

INTERNATIONAL COURT OF APPEALS

112. There was little support for the suggestion in the report that the International Court of Justice could also act as an International Court of Appeals. As for arbitral awards, it was felt that these benefited from finality.[67] Moreover, an appeals system could not be imposed from the outside, since it is for the parties to the dispute to accept or not an appeal in such a case.[68]

INTERNATIONAL CONSTITUTIONAL COURT

113. The report requests the interesting possibility of an international constitutional court to be studied. Partly, the International Court of Justice is already fulfilling a constitutional role within the UN-system,[69] protecting that system from disintegration. In many domestic legal systems a Constitutional Court as well as a Supreme Court exist side by side.[70] The view was expressed, however, that in order to have a Constitutional Court, a Constitution would be a prerequisite.

SPECIALIZED METHODS AND PROCEDURES

114. A multiple combination of political and legal methods might be made available to settle disputes in areas involving special interests. As to the legal methods a variety of choices might be included and the introduction of the "inverted consensus" rule for the adoption of panel reports might be considered.

115. A system of optional rules might be developed to open GATT/WTO procedures to individuals and corporations.

116. The availability to private parties of mechanisms for international control of domestic legislation, such as are currently in place under NAFTA and other arrangements, might be considered for wider use.

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66. See above: International Court of Justice's advisory functions; and below: International Court of Appeals.

67. See also above: Regional Courts.

68. e.g. in private commercial arbitration.

69. e.g. by allowing UN organs and specialized agencies to ask advisory opinions on legal questions, cf. Article 65 ff of the ICJ Statute.

70. See above: International Court of Appeals.

117. Access by affected interested private entities to international dispute settlement arrangements of a specialized nature[71] might be encouraged and might be followed in other types of arrangements involving individual rights and interests.

PERMANENT CONCILIATION COMMITTEE

118. Questions were raised about the need for or the advisability of a Permanent Conciliation Committee, as well as regarding:

1. the function and role of mediation/conciliation;
2. whether a Permanent Conciliation Committee would enjoy the confidence of parties, essential to the conciliation process and
3. whether such functions might be better co-ordinated with the Permanent Court of Arbitration[72] or entrusted to the Secretary-General of the United Nations; and
4. the appointment and rotation of the members of such Committee.

CODIFICATION OF INTERNATIONAL LAW

119. The development in publication by the UN of authoritative volumes and compendia on the law, e.g. regarding human rights, disarmament, etc.,[73] was noted with satisfaction. The same was true for studies on the work of the International Law Commission.

120. It was felt that codification alone is not enough; law creation is also needed.

WORLD SCHOOL OF INTERNATIONAL LAW

121. As to the proposal, expressed in the report, for the creation of a "world school of international law" it was suggested to study such proposals in conjunction with the Hague Academy of International Law.

122. The following points of the report, although tabled, were not specifically discussed during the expert meetings.

MEDIATION AND THE ROLE OF TECHNICAL BODIES

123. Mediation might be used with great flexibility, while a special role of a mediator might be considered in particular sensitive disputes.

124. In the context of specialized areas of cooperation, procedures might be developed for referring such disputes to technical bodies where appropriate.

125. Treaties as to these and other methods for dispute settlement that have fallen into disuse might be updated.

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71. Such as ICSID, the UNCC, the World Bank Inspection Panel and the International Administrative Tribunals.

72. See above, Prevention and Resolution, on institutionalization, and Permanent Court of Arbitration, on the Court's broad competence under its Rules.
Note by the co-hosts: see also the coordinating role of the UN Legal Counsel in the "Lockerbie-affair": cf. letter dated 5 April 1999 from the Secretary-General addressed to the President of the Security Council (S/1999/378).

73. Note by the co-hosts: see also the new electronic database for the United Nations Treaty Collection, access to information concerning United Nations activities in the field of international law, and the Internet access to the United Nations Treaty Series and the Multilateral Treaties Deposited with the Secretary-General, all referred to in A/RES/54/100.

# Appendix Reports, comments and speeches

The following reports and comments have been contributed[74] to the Centennial discussions by experts and posted on the internet by the Executive Secretariat.[75]

| *document title* | *file name* |
|---|---|
| PRELIMINARY REPORT<br>The Peaceful Settlement of Disputes: Prospects for the Twenty-first Century<br>by: Francisco ORREGO VICUÑA and Christopher PINTO | settle1.pdf |
| PRELIMINARY REPORT<br>Development of International Law Relating to Disarmament and Arms Control since the First Hague Peace Conference in 1899<br>by: Hans BLIX | arms1.pdf |
| PRELIMINARY REPORT<br>International Humanitarian Law and the Laws of War<br>by: Christopher GREENWOOD | human1.pdf |
| Commentaires sur le rapport préliminaire de MM. F. Orrego Vicuña et C. Pinto<br>by: Gilbert GUILLAUME | guilaum.pdf |
| Initial comments of the International Bureau of the Permanent Court of Arbitration on the report by F. Orrego Vicuña and C. Pinto<br>by: the International Bureau | PCAcom.pdf |
| Observations on the document by F. Orrego Vicuña et C. Pinto<br>by: Dr. Eduardo VIO GROSSI | IAJCSet1.pdf |
| Comments on the preliminary report by F. Orrego Vicuña et C. Pinto<br>by: Dr. Keith HIGHET | IAJCHigh.pdf |
| The Fridtjof Nansen Memorial Lecture<br>by: Knut VOLLEBÆK | small1.pdf |
| Peaceful Settlement of Disputes - an Overview<br>by: Dr. Galo LEORO F. | SetAJC.pdf |
| Comments on sections III + V of the preliminary report by F. Orrego Vicuña and C. Pinto<br>by: Prof. Barbara KWIATKOWSKA | Kwiatkow.pdf |
| Two Other Ideas<br>by: Roy S. LEE | Lee.pdf |
| General Comments on "Peaceful Settlement of Disputes"<br>by: Shabati ROSENNE | Rosenne1.pdf |
| Comments on the International Court of Justice<br>by: Shabati ROSENNE | Rosenne2.pdf |
| Comments on the preliminary report by F. Orrego Vicuña and C. Pinto<br>by: the Netherlands Advisory Committee on International Issues | cavveng1.pdf |

74. In the Peace Palace languages: English or French.

75. http://www.minbuza.nl/english/conferences/c_peace_docs.html
All documents were posted as Adobe® Acrobat® files (*.pdf) in order to allow cross-platform accessibility and guarantee integrity of the documents. For reading and printing Acrobat® Reader® software was offered as free download.

| *document title* | *file name* |
|---|---|
| Comments on "International Humanitarian Law and the Laws of War" by Christopher Greenwood<br>by: the Netherlands Advisory Committee on International Issues | cavveng2.pdf |
| Comments on "Development of International Law Relating to Disarmament and Arms Control since the First Hague Peace Conference in 1899" by Hans Blix<br>by: the Netherlands Advisory Committee on International Issues | cavveng3.pdf |
| Informal Comments on the draft report by Hans Blix<br>by: ICRC | ICRCarms.pdf |
| "The Feasibility of Implementing The Hague/St. Petersburg Centennial Recommendations under the UN System"<br>by: Hans CORELL, as distributed in New Delhi, 11-12 February 1999 | Corell.pdf |
| Statement by the President of the 37th Session of the Asian-African Legal Consultative Committee<br>by: P. S. RAO | Rao.pdf |
| Report by the Rapporteur of the Second Session on "International Humanitarian Law and the Laws of War", New Delhi, 11 February 1999 | delhihum.pdf |
| Draft Report of the Rapporteur of the First Session on "Peaceful Settlement of Disputes", New Delhi, 11 February 1999<br>by: S. M. CONFIADO | delhistl.pdf |
| Speech by the Chinese Representative at the Expert Meeting of AALCC on the Preliminary Reports on the Commemoration of the Centennial of the 1st Hague Peace Conference | delhichn.pdf |
| International Law and the Clarification of the Right of Self Defence<br>by: Zahra NOPARAST | delhiirn.pdf |
| The International Law of Disarmament: a Centennial Overview<br>by: V. S. MANI | delhmani.pdf |
| Comments on the Preliminary Reports of Special Rapporteur Prof. Christopher Greenwood on International Humanitarian Law and the Laws of War<br>by: B. S. CHIMNI | delhchim.pdf |
| Point of Correction to the report by Hans Blix<br>by: G. BOZKURT | Ottoman.pdf |
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| *document title* | *file name* |
|---|---|
| Excerpts from "Peaceful Resolution of Major International Disputes", Summaries and Recommendations<br>edited by: Julie DAHLITZ | London.pdf |
| Improving the System of Settlement of Disputes<br>by: Roy S. LEE | Roy.pdf |
| Report on the Asia-Pacific Conference to Commemorate the Centenary of the First Hague International Peace Conference of 1899<br>by: Tim MCCORMACK | melb.pdf |
| UK Government Comments on the Preliminary Report by Mr. Hans Blix concerning Disarmament and Arms Control<br>by: The Foreign and Commonwealth Office | FCOarms.pdf |
| UK Government Comments on the Preliminary Report by Professor Christopher Greenwood for The Hague Centennial Commemoration<br>by: The Foreign and Commonwealth Office | FCOhum.pdf |
| UK Government Comments on the Preliminary Report by Professor Orrego Vivuña and Mr. Pinto on "The Peaceful Settlement of Disputes: Prospects for the Twenty-First Century"<br>by: The Foreign and Commonwealth Office | FCOsettl.pdf |
| Seminar Commemorating the First International Peace Conference of 1899<br>by: The South African Department of Foreign Affairs | SADC.pdf |
| Comments regarding the preliminary report by Hans Blix, "Development of International Law Relating to Disarmament and Arms Control since the First Hague Peace Conference in 1899"<br>by: CHOI Seung-hoh, Director-General of the Treaties Bureau, Republic of Korea | ROKBlix.pdf |
| Comments regarding the preliminary report by Christopher Greenwood, "International Humanitarian Law and the Laws of War"<br>by: CHOI Seung-hoh, Director-General of the Treaties Bureau, Republic of Korea | ROKGreen.pdf |
| The Peaceful Settlement of Disputes: the Role of International Law and the International Court of Justice<br>by: Cheryl A. THOMPSON-BARROW | jamaica.pdf |
| REVISED REPORT<br>The Peaceful Settlement of Disputes: Prospects for the Twenty-first<br>by: Francisco ORREGO VICUÑA and Christopher PINTO | settle3.pdf |
| REVISED REPORT<br>International Humanitarian Law and the Laws of War<br>by: Christopher GREENWOOD | human3.pdf |
| REVISED REPORT<br>Development of International Law Relating to Disarmament and Arms Control since the First Hague Peace Conference in 1899, especially the rules and practices regarding verification and compliance<br>by: Hans BLIX | arms3.pdf |
| Draft conclusions of the Centennial discussions at the Peace Palace, The Hague, 18-19 May, 1999 | 99concl3.pdf |
| Some Observations on the Revised Blix Reoprt on Disarmament<br>by: John BURROUGHS, Lawyers' Committee on Nuclear Policy | lcnp.pdf |

| *document title* | *file name* |
|---|---|
| CONCLUSIONS<br>Outcome of the celebrations of the Centennial of the First International Peace Conference<br>Report submitted by the Governments of the Kingdom of the Netherlands and the Russian Federation | 1999ccl8.pdf |

The following (key-note) speeches were delivered[76] at the Peace Palace sessions of the celebration of the Centennial of the First International Peace Conference (18 and 19 May 1999) and posted on the internet by the Executive Secretariat.[77]

| *document title* | *file name* |
|---|---|
| On the Cutting Edge<br>by: Jozias VAN AARTSEN, Minister for Foreign Affairs of the Kingdom of the Netherlands | speech1.pdf |
| The International Rule of Law Established at the 1899 Peace Conference<br>by: Hans VAN MIERLO, Chairman of the Centennial celebrations at the Peace Palace | speech2.pdf |
| The Effectiveness of the International Rule of Law in Maintaining International Peace and Security<br>by: Kofi ANNAN, Secretary-General of the United Nations | speech3.pdf<br>UN Press Release SG/SM/6997 |
| International Humanitarian Law: from the Hopes of 1899 to the Challenges of 1999<br>by: Cornelio SOMMARUGA, President of the International Committee of the Red Cross | speech4.pdf |
| The Disarmament Legacy of the First International Peace Conference<br>by: José BUSTANI, Director-General of the Organization for the Prohibition of Chemical Weapons | speech6.pdf<br>http://www.opcw.org/dg-hap.htm |
| The United Nations as Successor to the International Rule of Law Established at the 1899 First International Peace Conference<br>by: Hans CORELL, Under Secretary-General and Legal Counsel of the United Nations | speech5.pdf |
| The Humanitarian Legacy of the First International Peace Conference<br>by: Astrid HEIBERG, President of the International Federation of Red Cross and Red Crescent Societies | speech11.pdf |
| Possible Ways Ahead with regards to Peaceful Settlement of Disputes<br>by: Hans JONKMAN, Secretary-General of the Permanent Court of Arbitration | speech12.pdf |
| Report of the Commemorative Conference of the Members of the Permanent Court of Arbitration<br>by: Sir Ninian STEPHEN, Chairman of the Commemorative Session | speech9.pdf |

76. In the Peace Palace languages: English or French.

77. http://www.minbuza.nl/english/conferences/peacespeeches/c-speeches.html
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|---|---|
| Report on the Conclusions of the Hague Appeal for Peace citizens' conference<br>by: Bill PACE, Secretary-General of the Hague Appeal for Peace | speech10.pdf |
| The Beginning, Not the End: an Appraisal of the 1899 hague Peace Conference<br>by: Arthur EYFFINGER, Peace Palace Historian | speech13.pdf |
| The Hague Peace Conference of 1899: an Historical Introduction<br>by: Robin SHARWOOD, University of Melbourne | speech8.pdf |
| Le Règlement pacifique des différends: perspectives pour le 21e siècle<br>by: Gilbert GUILLAUME, introductory speaker | guilopp.pdf |
| Comments on the Report by Hans Blix entitled "Development of International Law Relating to Disarmament and Arms Control"<br>by: Julie DAHLITZ, introductory speaker | dltzopp.pdf |
| Closing Remarks of the Discussions on the Legislative and Normative Aspects of the Themes of the First International Peace Conference<br>by: Hans VAN MIERLO, Chairman of the Centennial celebrations at the Peace Palace | speech7.pdf |

The following (key-note) speeches were delivered[78] at the Smolny Palace sessions of the celebration of the Centennial of the First International Peace Conference (22-25 June 1999) and posted on the internet by the Executive Secretariat.

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**Fifty-fourth session**
Agenda item 119
**Programme budget for the biennium 1998-1999**

# Standards of accommodation for air travel

## Report of the Secretary-General

## I. Introduction

1. The present report covers the period from 1 July 1998 to 30 June 1999, and is submitted in accordance with General Assembly decisions 44/442 of 21 December 1989 and 46/450 of 20 December 1991, in which the Assembly requested the Secretary-General to submit annual reports on standards of accommodation for air travel. As also requested by the Assembly in its decision 40/455 of 18 December 1985 and section XIII of its resolution 45/248 A of 21 December 1990, respectively, information is included on expenditures by the United Nations for first-class air travel and relevant exceptions.

2. During the period under review, standards of accommodation for air travel were governed by General Assembly resolution 42/214 of 21 December 1987, in which the Assembly decided that all individuals, with the exception of the Secretary-General and the heads of delegations of the least developed countries to the regular and special sessions of the Assembly, whose travel was financed by United Nations organizations and programmes and who had been previously entitled to first-class accommodation, would be required to travel at the class immediately below first class. In the same resolution, the Assembly authorized the Secretary-General to exercise his discretion in making exceptions to allow first-class travel on a case-by-case basis.

## II. Delegation travel

3. The General Assembly, in its resolution 42/214, limits the payment of first-class accommodation by air to one representative of each Member State designated as a least developed country attending the regular and special sessions of the Assembly. For the fifty-third session, for the period from 1 July 1998 to 30 June 1999, claims submitted to date involved 23 such journeys at a cost of $123,545.

## III. Exceptions authorized by the Secretary-General

4. As stated above, in General Assembly resolution 42/214, the Secretary-General was authorized to exercise his discretion in making exceptions to allow first-class air travel on a case-by-case basis. In addition, business-class travel by air may be authorized by the Secretary-General in certain circumstances, in accordance with administrative instruction ST/AI/249/Rev.3 of 29 March 1989.

5. Generally, in reviewing cases that may warrant an exception, the Secretary-General takes into consideration the following circumstances:

(a) A medical condition may exist necessitating a level of comfort not available in the normal standard of accommodation to which the traveller is entitled. Such cases

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are referred to the Director of the Medical Services Division of the Secretariat for recommendation. It should be noted that the practice of granting exceptions in cases where a traveller is of an advanced age has been discontinued;

(b) The normal standard of accommodation is not available and, owing to the exigencies of the service, the traveller is required to travel on a particular date. Cases also arise where accommodation at the normal entitlement is not available and the cost of daily subsistence allowance, while waiting for the next available seat, would be greater than the higher standard of travel;

(c) The traveller is considered an eminent person, such as a former head of State, or a prominent figure in political, humanitarian or cultural areas;

(d) The traveller is a prominent person who is donating his or her services free of charge to the Organization, and, in some cases, at a loss of personal income. Such individuals may be accorded the standard of accommodation that they normally use when travelling;

(e) The traveller, after completing a full day of work, is required to travel through the night in order to resume work, attend meetings or present a paper at another location on the following morning or immediately upon arrival. Where such cases involve arduous journeys, it has been deemed reasonable that the standard of accommodation accorded to the traveller should provide the best rest possible while travelling, or provide the conditions most conducive to work while flying, or both.

6. On 18 March 1998, the Secretary-General decided, as an exception, that all travel of the Deputy Secretary-General should be in first class, in keeping with her special status. As regards practical arrangements, efforts first are made to obtain upgrades to first class against payment of the full business-class fare. Where this is not feasible, the first-class fare is paid. During the reporting period, six such journeys were carried out at a total additional cost of $12,075.

7. In respect of exceptions to air travel authorized during the period from 1 July 1998 to 30 June 1999 owing to the circumstances described in paragraph 5 above, the present report provides, in annexes I to V, detailed information on the additional cost of and reasons for such exceptions.

8. Altogether, for travel during the period from 1 July 1998 to 30 June 1999, the Secretary-General exercised his discretion by authorizing, as an exception, 55 cases of first-class air travel. In addition, during the same period, the Secretary-General authorized business-class travel by air as an exception to the standards of accommodation in 25 cases. These 80 exceptions amount to 0.22 per cent of the total of about 36,000 official journeys completed for the United Nations Secretariat and United Nations funds and programmes during the reporting period.

9. It should be noted that in accordance with the established practice to ensure personal safety, the Secretary-General was accompanied on all trips during the period under review by a personal aide/security officer who travelled by air in first class. The total additional cost of 15 such trips was $32,456.

10. The total additional cost incurred by the Organization for the period 1 July 1998 to 30 June 1999 was $101,939, or 0.092 per cent of the total of approximately $110 million of official travel expenditures of the United Nations Secretariat and the United Nations funds and programmes during the same period.

11. While continuous administrative oversight has kept the number of exceptions at a minimum, it should be noted that in certain cases they are unavoidable. For example, exceptions owing to the lack of availability of regular standards are dictated by the exigencies of specific situations, and their number cannot therefore be kept constant or be forced to decrease without hampering the efficiency of the traveller's missions. Moreover, in many cases, to compel a traveller to wait until the established standard of travel becomes available would result in extra costs for the Organization for the daily subsistence allowance over and above the cost of an upgrade; an upgrade therefore remains the only cost-effective option.

Table 1

**Summary of exceptions, 1 July 1998–30 June 1999**

*(Cost in United States dollars)*

| | *First class* | | *Business class* | | *Total* | |
|---|---|---|---|---|---|---|
| *Reasons for exceptions* | *Number of trips* | *Additional cost* | *Number of trips* | *Additional cost* | *Number of trips* | *Additional cost* |
| Medical condition | 14 | 11 139 | 2 | 1 629 | 16 | 12 768 |
| Regular standard of accommodation not available | 6 | 855 | 8 | 1 107 | 14 | 1 962 |
| Eminent persons | 10 | 12 806 | 11 | 13 648 | 21 | 26 454 |
| Donating services free of charge to the Organization | 1 | 2 893 | 3 | 5 279 | 4 | 8 172 |
| Arduous journeys | 3 | 7 893 | 1 | 159 | 4 | 8 052 |
| Personal aides/security officer | 15 | 32 456 | 0 | 0 | 15 | 32 456 |
| Deputy Secretary-General | 6 | 12 075 | 0 | 0 | 6 | 12 075 |
| **Total** | **55** | **80 117** | **25** | **21 822** | **80** | **101 939** |

Table 2

**Summary of exceptions, 1 July 1997–30 June 1998**

*(Cost in United States dollars)*

| | *First class* | | *Business class* | | *Total* | |
|---|---|---|---|---|---|---|
| *Reasons for exceptions* | *Number of trips* | *Additional cost* | *Number of trips* | *Additional cost* | *Number of trips* | *Additional cost* |
| Medical condition | 1 | 130 | 8 | 6 943 | 9 | 7 073 |
| Regular standard of accommodation not available | 4 | 4 825 | 6 | 4 867 | 10 | 9 692 |
| Eminent persons | 0 | 0 | 9 | 6 375 | 9 | 6 375 |
| Donating services free of charge to the Organization | 3 | 9 197 | 6 | 8 354 | 9 | 17 551 |
| Arduous journeys | 0 | 0 | 2 | 500 | 2 | 500 |
| Personal aides/security officer | 13 | 34 347 | 0 | 0 | 13 | 34 347 |
| Deputy Secretary-General | 3 | 6 299 | 0 | 0 | 3 | 6 299 |
| **Total** | **24** | **54 798** | **31** | **27 039** | **55** | **81 837** |

# Annex I

## Exceptions authorized owing to medical conditions, 1 July 1998-30 June 1999

| *Designation of traveller* | *Itinerary*[a] | *Additional cost (US dollars)* |
|---|---|---|
| **A. First class** | | |
| 1. Staff member, Office of the United Nations High Commissioner for Refugees | Geneva/Tokyo/... | 2 720 |
| 2. Personal Representative of the Secretary-General for East Timor | Tampa/New York/Tampa | 302 |
| 3. Personal Representative of the Secretary-General for East Timor | Tampa/New York/Tampa | 265 |
| 4. Personal Representative of the Secretary-General for East Timor | Tampa/New York/Tampa | 292 |
| 5. Personal Representative of the Secretary-General for East Timor | Tampa/New York/Tampa | 292 |
| 6. Personal Representative of the Secretary-General for East Timor | Tampa/New York/Jakarta/ Denpasar/Dili/Denpasar/ Jakarta/Tampa/New York | 2 398 |
| 7. Personal Representative of the Secretary-General for East Timor | Tampa/New York/Tampa | 236 |
| 8. Personal Representative of the Secretary-General for East Timor | Tampa/New York/Tampa | 245 |
| 9. Personal Representative of the Secretary-General for East Timor | Tampa/New York/Tampa | 20 |
| 10. Personal Representative of the Secretary-General for East Timor | Tampa/New York/Tampa | 245 |
| 11. Personal Representative of the Secretary-General for East Timor | Tampa/New York/Tampa | 470 |
| 12. Personal Representative of the Secretary-General for East Timor | Tampa/New York/Tampa | 431 |
| 13. Personal Representative of the Secretary-General for East Timor | Tampa/New York/Tampa | 244 |
| 14. Personal Representative of the Secretary-General for East Timor | Tampa/New York/Singapore/ Jakarta/Dili/Australia/New York/Tampa | 2 979 |
| **Subtotal** | | **11 139** |
| **B. Business class** | | |
| 1. Staff member, MINURSO | Laayoune/Casablanca/ Montreal/New York | 178 |
| 2. Staff member (UNDP) | New York/Stockholm/New York | 1 451 |
| **Subtotal** | | **1 629** |
| **Total** | | **12 768** |

[a] The points of ellipses (...) in a given itinerary indicate that some legs of the itinerary were by regular standard of accommodation and no exception was involved.

# Annex II

## Exceptions authorized when the regular standard of accommodation was not available, 1 July 1998-30 June 1999

| *Designation of traveller* | *Itinerary*[a] | *Additional cost (US dollars)* |
|---|---|---|
| **A. First class** | | |
| **Discussions regarding Ethiopia/Eritrea conflict** | | |
| 1. Staff member, Department of Political Affairs | Asmara/Jeddah | 110 |
| **Programme approach training workshop** | | |
| 2. Staff member, UNDP | .../Abidjan/Monrovia/... | 141 |
| 3. Staff member, UNDP | .../Abidjan/Monrovia/... | 141 |
| **UNIC Director's meeting** | | |
| 4. Staff member, United Nations Information Centre | Istanbul/New York | 71 |
| **Preparation of a policy paper on communication and media** | | |
| 5. Consultant, United Nations Office for Project Services | .../Accra/Freetown/Accra/... | 200 |
| **First meeting of the Committee of Seven on Guinea-Bissau** | | |
| 6. Representative of the Secretary-General | Monrovia/Accra/Monrovia | 192 |
| **Subtotal** | | **855** |
| **B. Business class** | | |
| 1. United Nations Population Fund candidate | Geneva/New York/Geneva | 119 |
| 2. Staff member, UNDP | .../Caracas/Curaçao/... | 77 |
| 3. Staff member, United Nations Office for Project Services | .../Islamabad/New York | 57 |
| 4. Staff member, Office for the Coordination of Humanitarian Affairs | .../Geneva/New York | 324 |
| **Discussions regarding Ethiopia/Eritrea conflict** | | |
| 5. Staff member, Department of Political Affairs | Jeddah/Addis Ababa | 39 |
| **Emerging democracies forum** | | |
| 6. Staff member, Office of the United Nations High Commission for Human Rights | .../Jeddah/Cairo/... | 300 |
| **Workshop on regional cooperation in flood control and management for improvement of the urban environment in Asia and the Pacific, phase I** | | |
| 7. Director-General of the Administrative Centre for China's Agenda 21 | Beijing/Bangkok/... | 103 |

| *Designation of traveller* | *Itinerary*[a] | *Additional cost (US dollars)* |
|---|---|---|
| **Expert group meeting on trade promotion policy** | | |
| 8. Participant | Delhi/Bangkok/... | 44 |
| 9. Participant | Delhi/Bangkok/... | 44 |
| **Subtotal** | | **1 107** |
| **Total** | | **1 962** |

[a] The points of ellipses (...) in a given itinerary indicate that some legs of the itinerary were by regular standard of accommodation and no exception was involved.

# Annex III

## Exceptions authorized for eminent persons, 1 July 1998-30 June 1999

| *Designation of traveller* | *Itinerary* | *Additional cost (US dollars)* |
|---|---|---|
| **A. First class** | | |
| **Annual meeting of the UNEP Sasakawa Environment Prize for 1999** | | |
| 1. Princess of Thailand | Bangkok/Geneva/Bangkok | 1 261 |
| **Panel of Eminent Persons on Algeria** | | |
| 2. Former Prime Minister of India | New Delhi/Lisbon/New Delhi | 699 |
| 3. Spouse of former Prime Minister of India | New Delhi/Lisbon/New Delhi | 699 |
| 4. Former Prime Minister of France and former President of the European Parliament | Paris/Algiers/Paris | 54 |
| 5. Former Permanent Representative of the United States to the United Nations | Washington, D.C./Lisbon/ Washington, D.C. | 1 970 |
| 6. Attorney-General of Kenya | Nairobi/Lisbon/Nairobi | 2 319 |
| **Eighth session of the Commission on Crime Prevention and Criminal Justice** | | |
| 7. President of Tajikistan | Washington, D.C./ Frankfurt/Vienna | 1 451 |
| 8. Minister of Foreign Affairs, Tajikistan | Washington, D.C./ Frankfurt/Vienna | 1 451 |
| 9. State Secretary, Tajikistan | Washington, D.C./ Frankfurt/Vienna | 1 451 |
| 10. Minister of Finance, Tajikistan | Washington, D.C./ Frankfurt/Vienna | 1 451 |
| **Subtotal** | | **12 806** |
| **B. Business class** | | |
| **High-level meetings with the Secretary-General** | | |
| 1. Former Prime Minister of Senegal | Dakar/New York/Dakar | 661 |
| 2. Former Prime Minister of Senegal | Dakar/New York/Dakar | 1 394 |
| **Award ceremony of UNEP Sasakawa Environment Prize** | | |
| 3. Chairman of Europe 21, Joint President of Society of Labour Lawyers, Life Peer of the House of Lords, Member of Her Majesty's Privy Council, Former Minister of State, Department of Trade and Industry. United Kingdom | London/New York/London | 3 987 |
| **Commemoration of fifty years of United Nations peacekeeping** | | |
| 4. Recipient of Dag Hammarskjöld Medal | London/New York/London | 6 021 |

| *Designation of traveller* | *Itinerary* | *Additional cost (US dollars)* |
|---|---|---|
| **Launching of 1998 Human Development Report** | | |
| 5. Princess of Jordan | Amman/Manama/Amman | 96 |
| **Conference on poverty reduction strategy** | | |
| 6. Senior Director-General for International Economy, Department of External Trade, China | Beijing/Tokyo/Beijing | 300 |
| 7. Member of Planning Commission, Bangladesh | Dhaka/Tokyo/Dhaka | 168 |
| 8. Vice Minister for Prime Minister's Office, Lao People's Democratic Republic | Vientiane/Tokyo/Vientiane | 232 |
| **Panel of Eminent Persons on Algeria** | | |
| 9. Former Minister of France and Former President of the European Parliament | Paris/Lisbon/Paris | 124 |
| 10. Former Prime Minister of Jordan | Amman/Lisbon/Amman | 665 |
| **Total, B** | | **13 648** |
| **Grand total, A and B** | | **26 454** |

# Annex IV

## Exceptions authorized for prominent persons donating their services free of charge to the Organization, 1 July 1998-30 June 1999

| *Designation of traveller* | *Itinerary*[a] | *Additional cost (US dollars)* |
|---|---|---|
| **A. First class** | | |
| **Tribute by the Secretary-General** | | |
| 1. Goodwill Ambassador, United Nations Children's Fund | Geneva/New York/Geneva | 2 893 |
| **Total, A** | | **2 893** |
| **B. Business class** | | |
| **Panel meeting during twentieth session of UNEP Governing Council on deforestation** | | |
| 1. Keynote speaker and Professor Emeritus, University of Hamburg | London/Nairobi/... | 1 406 |
| **Round table of film directors in connection with the United Nations television forum** | | |
| 2. Film Director | Paris/New York/Paris | 3 059 |
| 3. Film Director | Los Angeles/New York/Los Angeles/Tokyo | 814 |
| **Total, B** | | **5 279** |
| **Grand total, A and B** | | **8 172** |

[a] The points of ellipses (...) in a given itinerary indicate that some legs of the itinerary were by regular standard of accommodation and no exception was involved.

# Annex V

## Exceptions authorized for cases involving arduous journey, 1 July 1998-30 June 1999

| *Designation of traveller* | *Itinerary*[a] | *Additional cost (US dollars)* |
|---|---|---|
| **A. First class** | | |
| 1. Administrator, UNDP | .../Boston/Paris/... | 890 |
| 2. Secretary-General, United Nations Conference on Trade and Development | New York/Rio de Janeiro/Brasilia/Sao Paolo/ New Delhi/Bombay/ London/Geneva | 2 210 |
| 3. Staff member, Executive Office of the Secretary-General | .../London/New York/... | 4 793 |
| **Subtotal** | | **7 893** |
| **B. Business class** | | |
| 1. Staff member, UNDP | New York/Amsterdam/... | 159 |
| **Subtotal** | | **159** |
| **Total** | | **8 052** |

[a] The points of ellipses (...) in a given itinerary indicate that some legs of the itinerary were by regular standard of accommodation and no exception was involved.

# Annex VI

## Exceptions relating to the travel of the Deputy Secretary-General, 1 July 1998-30 June 1999

| *Reason for exception/designation of traveller* | *Itinerary*[a] | *Additional cost (US dollars)* |
|---|---|---|
| **First class** | | |
| 1. Deputy Secretary-General | New York/London/... | 1 618 |
| 2. Deputy Secretary-General | New York/Amsterdam/.../ Geneva/New York | 1 350 |
| 3. Deputy Secretary-General | New York/Tunis/.../Beirut/ Dubai/Nairobi/New York | 1 426 |
| 4. Deputy Secretary-General | New York/Geneva/New York | 2 122 |
| 5. Deputy Secretary-General | New York/Maputo/.../Buenos Aires/Paris/New York | 3 437 |
| 6. Deputy Secretary-General | New York/Geneva/New York | 2 122 |
| **Total** | | **12 075** |

[a] The points of ellipses (...) in a given itinerary indicate that some legs of the itinerary were by regular standard of accommodation and no exception was involved.

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Agenda item 159
**Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization**

# Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions

## Report of the Secretary-General

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# I. Introduction

1. At its fifty-third session, the General Assembly adopted without a vote resolution 53/107 of 8 December 1998, entitled "Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions". In the resolution, the General Assembly, *inter alia*:

(a) Renewed its invitation to the Security Council to consider the establishment of further mechanisms or procedures, as appropriate, for consultations as early as possible under Article 50 of the Charter of the United Nations with third States, which were or might be confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Council under Chapter VII of the Charter, with regard to a solution of those problems, including appropriate ways and means for increasing the effectiveness of its methods and procedures applied in the consideration of requests by the affected States for assistance;

(b) Welcomed once again the further measures taken by the Security Council since the adoption of General Assembly resolution 50/51 of 11 December 1995 and aimed at increasing the effectiveness and transparency of the sanctions committees, invited the Council to implement those measures, and strongly recommended that the Council continue its efforts to enhance further the functioning of the sanctions committees, to streamline their working procedures and to facilitate access to them by representatives of States that found themselves confronted with special economic problems arising from the carrying out of sanctions;

(c) Reque ted the Secretary-General to pursue implementation o. resolutions 50/51 of 11 December 1995, 51/208 of 17 December 1996 and 52/162 of 15 December 1997 and to ensure that the competent units within the Secretariat developed the adequate capacity and appropriate modalities, technical procedures and guidelines to continue, on a regular basis, to collate and coordinate information about international assistance available to third States affected by the implementation of sanctions, to continue developing a possible methodology for assessing the adverse consequences actually incurred by third States and to initiate action in order to explore innovative and practical measures of assistance to the affected third States;

(d) Also requested the Secretary-General to seek the views of States, the organizations of the United Nations system, international financial institutions and other internationa' organizations regarding the report of the ad hoc expert group meeting on developing a methodology for assessing the consequences incurred by third States as a result of preventive or enforcement measures and on exploring innovative and practical measures of international assistance to the affected third States (see A/53/312, sect. IV);

(e) Reaffirmed the important role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in mobilizing and monitoring, as appropriate, the economic assistance efforts by the international community and the United Nations system to States confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council and, as appropriate, in identifying solutions to the special economic problems of those States, and decided to transmit the report of the ad hoc expert group meeting to the Economic and Social Council at its substantive session of 1999;

(f) Invited the organizations of the United Nations system, international financial institutions, other international organizations, regional organizations and Member States to address more specifically and directly, where appropriate, special economic problems of third States affected by sanctions imposed under Chapter VII of the Charter and, for that purpose, to consider improving procedures for consultations to maintain a constructive dialogue with such States, including through regular and frequent meetings as well as, where appropriate, special meetings between the affected third States and the donor community, with the participation of United Nations agencies and other international organizations;

(g) Requested the Secretary-General to submit a report on the implementation of the resolution to the General Assembly at its fifty-fourth session.

2. The present report has been prepared in response to General Assembly resolution 53/107.

## II. Measures for further improvement of procedures and working methods of the Security Council and its sanctions committees in the consideration of requests for assistance under Article 50 of the Charter of the United Nations

3. By a note dated 25 February 1999 (S/1999/204), the Secretary-General drew the attention of the members of the Security Council to General Assembly resolution 53/107, in particular to paragraphs 1 and 2 thereof, which are reproduced in paragraph 1 (a) and (b) above.

4. In a note dated 29 January 1999 on the work of the sanctions committees (S/1999/92), the President of the Security Council stated that all members of the Security Council had indicated their agreement that the practical proposals contained in the note would be used to improve the work of the sanctions committees in accordance with the resolutions concerned. In particular, paragraphs 1, 2, 7, 9 and 10 of the note may be of direct or indirect relevance to the issue of assistance to third States affected by the application of sanctions. As indicated in the note, the members of the Council will continue their consideration of ways to improve the work of the sanctions committees.

## III. Arrangements in the Secretariat for providing better information and early assessments regarding the actual and potential effects of sanctions on third States and international assistance available to the affected third States

5. The Secretary-General has taken due note of paragraph 3 of General Assembly resolution 53/107, which is reproduced in paragraph 1 (c) above. In this connection, the Secretary-General reaffirms once again that the arrangements in the Secretariat that were put in place in 1996, as reflected in paragraphs 4 to 11 of his report that year on the matter (A/51/317) and in paragraph 5 of his 1997 report (A/52/308), and as reaffirmed in paragraph 5 of his 1998 report (A/53/312), continue to apply.

## IV. Views communicated by Governments regarding the report of the ad hoc expert group meeting on assistance to third States affected by the application of sanctions

6. Pursuant to paragraphs 4 and 6 of General Assembly resolution 53/107, which are reproduced respectively in paragraphs 1 (d) and (f) above, the Secretary-General on 21 April 1999 circulated a note verbale to all States drawing their attention to resolution 53/107 and, in particular, inviting their views regarding the report of the ad hoc expert group meeting referred to in paragraph 4 of the resolution, as well as any other relevant information pursuant to paragraph 6 of the resolution. The replies received from five States, namely Belarus,[1] Poland, the Russian Federation,[2] Slovakia and Ukraine, are summarized below.

7. **Belarus** considers that sanctions are an exceptional measure to be applied against a target country when the possibilities for the pacific settlement of disputes provided for in Chapter VI of the Charter of the United Nations have been fully exhausted and the continuation of the dispute or conflict in question may endanger the maintenance of international peace and security. The adoption of the relevant Security Council decision should be preceded by, and take into account, an advance assessment of all the consequences of the sanctions both for the target country and for third States that apply them. Belarus considers that Article 50 of the Charter of the United Nations, which provides for assistance to third States affected by the application of sanctions, must be fully implemented. In that connection, it welcomes the report of the ad hoc expert group on developing a methodology for assessing the consequences incurred by third States and on exploring innovative and practical measures of assistance to the affected third States.

8. Belarus supports the methodology proposed by the ad hoc group, with its basis in such methods as: (a) time-series analysis of balance-of-payments changes; (b) sample survey of affected entities; (c) gravity model of bilateral trade flows; (d) regression equation of income shocks; and (e) analytic hierarchy process for perception surveys. Belarus shares the group's opinion that the choice of applicable method(s) will depend on particular circumstances of the affected State in the context of a specific sanctions regime. With a view to minimizing the collateral effects of sanctions and avoiding damage to third States' economies, Belarus considers it necessary that early assessments of the effects of sanctions be carried out by

means of on-site inspections by ad hoc missions and of appropriate consultations, including consultations between the sanctions committees established by the Security Council and the parties concerned. That would be of help, in particular, in establishing exemptions from a sanctions regime for third States regarding their transactions with the target State on items of vital importance to the third States. Such measures would in the final analysis obviate the need for subsequent compensation for the damage incurred. Belarus supports the expert group's view that sanctions should be targeted (e.g., freezing of personal accounts, visa-based travel restrictions, etc.) and should avoid, to the extent possible, affecting the civilian population in the target country and the economies of third States.

9. Regarding the group's proposals on practical measures of assistance to third countries affected by sanctions, Belarus feels that the priority step might be to dispatch to the worst-affected third countries special representatives of the Secretary-General accompanied by special missions to elaborate recommendations for alleviating the economic, commercial, financial, social, humanitarian and environmental effects. Consideration should be given to the establishment of a special mechanism to make disbursements, to come from voluntary or assessed contributions, for the purpose of implementing those recommendations. It is to be hoped that major industrialized countries will recognize their special responsibility in this regard. Belarus supports the experts' view that the United Nations Development Programme, specialized agencies of the United Nations system and, in particular, international financial and trade institutions with the requisite expertise and financial resources should support the efforts of third States to cope with the external economic shocks associated with the imposition of sanctions. Belarus is also in favour of the adoption of non-financial measures on behalf of third States, such as the easing of access to international markets for, and the lowering of tariffs on, goods from affected States. Belarus would welcome regional initiatives to assist third States affected by sanctions and views the report of the ad hoc group as a useful basis for further study of the matter in the context of the mandate of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. It would be appropriate to discuss this question in greater detail at the fifty-fourth session of the General Assembly.

10. **Poland** expressed the view that the report of the ad hoc expert group meeting on developing a methodology for assessing the consequences incurred by third States as a result of preventive or enforcement measures and on exploring innovative and practical measures of international assistance to the affected third States constitutes a positive step towards the implementation of the provisions of Articles 49 and 50 of the Charter of the United Nations. However, it considers it useful: (a) to complete a possible methodology for assessing the consequences actually incurred by third States as a result of sanctions with methods for assessing the social costs of sanctions referred to in paragraph 19 of the report, and (b) to provide third States affected by the application of sanctions with the possibility to present their position to the inter-agency arrangement or task force referred to in paragraph 54 of the report.

11. Poland feels that the report of the expert group deals only with technical procedures. Full use of those procedures could be possible only on the basis of an agreed interpretation by all States Members of the Organization of Articles 49 and 50 of the Charter of the United Nations. Such an interpretation should be based, in particular, on the concept of burden-sharing and equitable distribution of costs, as reflected in the above-mentioned Articles of the Charter. Since sanctions are imposed by the Security Council acting on behalf of all Member States, the costs of sanctions should also be borne by all of them. Adoption of the above-mentioned concept in the practical activities of the United Nations would enhance the effectiveness of the imposed sanctions, since it would encourage third States that might be affected as a result of sanctions to observe strictly the regime of sanctions and to cooperate fully in the implementation of sanctions, by warranting that their potential losses will be compensated in an appropriate manner.

12. In the opinion of Poland, costs borne by the international community in connection with the imposition of sanctions are usually significantly lower — in material as well as in human dimensions — than potential costs of military or peacekeeping operations that could be needed in cases when sanctions are not imposed or the sanctions regime is not fully observed. The costs of peacekeeping operations have been internationally shared, by either voluntary or assessed contributions. Why, then, are the costs of sanctions imposed also for the purposes of maintaining international peace and security on behalf of all Member States to be borne by only some of them?

13. Poland noted that, when considering the imposition of sanctions, the Security Council would greatly benefit from consultations — at the earliest possible stage — with third States that might be potentially affected by sanctions, because those States know best the local realities and specific circumstances of a given case. Such consultations would then enhance the effectiveness of sanctions with regard to a target State and minimize losses and damages of

third States, without undermining the political purposes of the contemplated sanctions regime. The Security Council in imposing sanctions should, on the basis of a prior assessment of their possible adverse consequences for third States, and when it might be required by the nature and dimension of those consequences, establish an appropriate arrangement that would comprise competent international institutions, in order to provide those States with immediate as well as long-term assistance.

14. Poland considers that the total costs of a given sanctions regime borne by a third State should be calculated after the sanctions have been lifted and should take into account, in particular, the assessed losses and damages of that State, the assistance received by it from different sources, as well as the assessed costs of long-lasting negative consequences of the sanctions (e.g., such consequences for third States in the transport sector might come to light long after the sanctions have been lifted). The total costs of a given sanctions regime should then be shared by all Member States in accordance with the above-mentioned concept that the costs of sanctions should be borne on a fair and equitable basis by the international community as a whole.

15. The **Russian Federation** emphasized that the imposition of economic sanctions inevitably impedes external economic relations, not only with the target country, but also with other countries. The Russian Federation has incurred and continues to incur tangible and real losses, both direct and indirect, as a result of United Nations sanctions regimes currently in place, in particular those against Iraq and Yugoslavia. Thus, in the fields of foreign trade and transportation, the direct damages caused by the sanctions include income foregone and losses incurred in connection with the suspension of trade and, consequently, of both export and import shipments (i.e., loss of supplies and customers). The disruption of established external economic relations is leading to rising transport costs because of rerouteing and increased delays at border crossing points; losses are being incurred in the most profitable area of export of transport-related services, namely trans-shipment across Russian territory. With regard to the indirect effects of economic sanctions, among the most visible and tangible signs of their adverse impact on the economies of so-called "third" countries are foregone tax and tariff revenues, job losses among both blue-collar and white-collar employees and, as a result, declining living standards among working people and increased social expenditures.

16. The methodology set forth in the report for estimating the level of damages incurred by third countries as a result of the application of sanctions is acceptable overall to the Russian Federation. However, the report does not describe how States indirectly affected by sanctions will be regulated and "codified", or what scale might be used to determine the amount of compensation payable to them. In particular, it would be interesting to know to what extent the formula used to calculate compensation will take account of the international status of a third country affected by sanctions, its size and level of economic development, and the nature of its relationship with the regime targeted by the sanctions. These issues are of direct concern to the Russian Federation, whose losses as a result of its participation in the sanctions regimes against the Libyan Arab Jamahiriya, Iraq and Yugoslavia far exceed the damages sustained in this connection by the States neighbouring those countries and by Western States.

17. The report also raises the very important question of involving by the United Nations as "sponsors" in the implementation of the principal compensation projects the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development (IBRD). Of course, these international financial institutions must play the leading role in assessing the economic consequences actually incurred by third States as a result of United Nations-imposed sanctions and in rendering financial assistance to the affected countries. At the same time, it is important that, within the framework of the mechanism for providing international support to the indirect victims of United Nations sanctions, the prerogatives of the United Nations Security Council as set forth in Article 50 of the Charter and the principles of impartiality and equality of rights of States should be respected when matters related to the imposition of preventive or enforcement measures under Chapter VII of the Charter are addressed.

18. In the opinion of the Russian Federation, the determining factor in reaching a final decision regarding the "geography" of the distribution of assistance to the indirect victims of United Nations sanctions regimes should be the decisions of the United Nations Security Council and its sanctions committees, the resolutions and recommendations of the General Assembly and its subsidiary bodies (e.g., the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization) and of the Economic and Social Council and the views of the United Nations Secretariat. The role of the Special Representative appointed by the Secretary-General, as envisaged in paragraph 54 of the report, merits attention in this regard as the person entrusted with responsibility for the whole spectrum of measures of assistance to third countries affected by the application of sanctions. It would also be useful to consider the possibility of developing under United

Nations auspices a mechanism for rendering emergency assistance to third countries, giving priority to the creation of conditions for ensuring the provision of finance to specific, deeply affected economic sectors of individual countries. The development of such a mechanism could involve the United Nations international and regional organizations, programmes and agencies working in the field of development and the international financial institutions.

19. **Slovakia** expressed its appreciation to the ad hoc expert group on assistance to third States affected by the application of sanctions for its work. It considers that the summary of the deliberations and main findings of the ad hoc expert group meeting on developing a methodology for assessing the consequences incurred by third States as a result of preventive or enforcement measures and on exploring innovative and practical measures of international assistance to the affected third States represents an important contribution to the constructive application of Article 50 of the Charter of the United Nations. In this regard, Slovakia reiterates the spirit of those conclusions and recommendations which could lead to the adoption of practical steps in order to implement the provisions of Article 50 of the Charter of the United Nations related to assistance to third States affected by the application of sanctions. Thus, in the implementation of sanctions regimes, the Security Council should take into account the group's proposals with regard to: (a) the drawing up of a tentative list of potential effects of sanctions on third States (para. 50); (b) the preparation, within a short period of time, of an advance assessment of the potential impact of sanctions on the target country and, in particular, on third States (para. 51); and (c) the appointment of a Special Representative of the Secretary-General with the ultimate responsibility for the whole process of assistance to third States affected by the application of sanctions, including the mandate for submitting to the Security Council proposals on the practical measures leading to the concrete assistance to third States affected by the sanctions regime (paras. 54 and 57).

20. The Government of the Slovak Republic, having in mind the primary responsibility of the Security Council for the maintenance of international peace and security under Article 24, paragraph 1, of the Charter of the United Nations, shares the view that the right of the Security Council to impose sanctions has to be closely followed by the effective implementation by the Security Council of Article 50 of the Charter of the United Nations.

21. **Ukraine** regards the in-depth review undertaken by the ad hoc expert group, convened by the Secretary-General pursuant to General Assembly resolution 52/162, on the question of developing a methodology for assessing the consequences incurred by third States as a result of preventive or enforcement measures and exploring innovative and practical measures of international assistance to the affected third States as a significant step forward towards the practical implementation of the provisions of Articles 49 and 50 of the Charter of the United Nations. The outcome of the expert group meeting is instrumental for minimizing the negative effects of the Security Council sanctions on non-target States, mobilizing wider support by the international community to the affected countries, encouraging full cooperation and mutual assistance in the implementation and enforcement of sanctions regimes and other measures imposed under Chapter VII of the Charter, and thus strengthening the powers and the authority of the Security Council, as well as upholding its overriding responsibilities under the Charter. As pointed out by the ad hoc expert group itself, practical and timely assistance to third States affected by the application of sanctions would further contribute to an effective and comprehensive approach by the international community to sanctions imposed by the Security Council (para. 36).

22. Ukraine considers that the objectives of the international community in this area could be best served by creating a permanent and reliable legal mechanism for addressing, automatically and without delay, special economic problems referred to in Article 50 of the Charter. Recognizing that economic sanctions against any State are likely to result in economic losses or additional costs for neighbouring countries and other trade and economic partners of the target State, Ukraine strongly upholds the view that all States Members of the United Nations should bear equitable and shared responsibility for meeting the consequences of the implementation of sanctions imposed by the Security Council on behalf of the Organization as a whole. Thus, one of the main objectives of the proposed mechanism should be to elaborate specific and appropriate measures conducive to the removal of actual inadequacies in the process and creation of a system of fair distribution of unavoidable economic and social costs of sanctions. The ad hoc expert group during its deliberations and in its agreed conclusions and recommendations has stressed the concept of burden-sharing and, in fact, laid out the main elements of a possible mechanism for this purpose.

23. The group made it clear that the measures of assistance to third States should include both financial and non-financial actions (para. 35). While concurring with the suggestion that the international financial institutions should play the lead role in providing financial assistance to affected countries, Ukraine considers it critically important that the relevant United Nations intergovernmental and

inter-agency bodies pursue the implementation of General Assembly resolutions 50/51, 51/208, 52/162 and 53/107, with a view to strengthening the established arrangements within the United Nations to serve as the focal point in coordinating the full range of activities undertaken in implementation of Article 50 by the institutions both within and outside the United Nations system. It is also essential that the relevant United Nations bodies take the primary responsibility for carrying out non-financial measures of assistance.

24. Ukraine fully endorses the approach adopted by the expert group in that the actions aimed at minimizing collateral damage of sanctions should begin at the initial stages of designing the sanctions regimes (paras. 38-41). Such advance actions, as suggested by the group, would include mainly administrative and non-financial measures, such as prior studies and consultations, early assessments and preliminary analyses of possible adverse effects, which indeed do not require the allocation of additional resources and are not time-consuming. It is very important that the Security Council, when considering the imposition of sanctions, request the Secretary-General to submit, based on available statistical data, an advance assessment of the potential impact of sanctions (para. 51). Following the imposition of sanctions, the Security Council and its organs would benefit from further assessments and analyses so that, while maintaining the effectiveness of the sanctions regime, appropriate adjustments and partial changes may be introduced, taking into account information received from the Secretariat entrusted with monitoring the effects of sanctions (para. 52), with a view to reducing to a substantial degree both the damage sustained by the affected third States and the need to resort to financial measures of assistance.

25. At all stages, the potentially vulnerable and actually affected third States should be able to exercise their right, stipulated in Article 50 of the Charter, to consult the Security Council with regard to a solution of their special economic problems arising from the carrying out of preventive or enforcement measures. Ukraine welcomes the idea of entrusting the Secretariat with the task of providing technical assistance to the interested States invoking Article 50 of the Charter in preparing explanatory materials to be attached to their requests for consultations with the Security Council (para. 53).

26. Ukraine concurs with the conclusion of the ad hoc expert group that, in dealing with assessment of the effects of sanctions on non-target States, the choice of applicable methods depends upon particular circumstances of the affected State and specific features of the sanctions regime. The five methods of impact assessment reviewed by the expert group provide appropriate flexibility and constitute a sufficient basis for further work in this direction. On-site and field assessments by fact-finding missions (paras. 34 and 56) should form an integral part of this work. Ukraine considers that such missions do not necessarily require specific authorization from the Security Council or its sanctions committees, and can be initiated by the Secretary-General upon request from the interested States invoking Article 50 of the Charter.

27. Ukraine fully supports the idea largely shared by the group that, in order to address specifically and directly the special economic problems of third States, IMF and the World Bank could consider establishing a special mechanism which would allow those institutions to mobilize new and additional financial resources, in order to provide, on exceptional and concessionary terms, an emergency financial assistance which would go above and beyond the traditional interventions on account of macroeconomic imbalances or structural adjustment programmes (para. 44). It is important that such financial assistance (e.g., special credit lines for the affected third States) be supplemented by non-financial measures of trade promotion, including special trade preferences, adjustment of tariffs, allocation of quotas, special commodity purchase agreements, finding new markets, etc. These ideas are in line with the proposals of Ukraine, as contained in its position paper, on the problems of implementation of the economic sanctions imposed by the Security Council (see A/51/226-S/1996/595). Ukraine also recognizes the important role of the United Nations development programmes, funds and agencies in providing emergency relief to enable third States to better cope with the social and humanitarian effects of sanctions (para. 45).

28. The suggestion by the ad hoc expert group that serious consideration should be given to applying, for the purpose of mitigating the adverse effects of sanctions on non-target States, the funding procedures similar to those adopted for peacekeeping operations (para. 46) deserves every support and practical implementation. It proceeds from the premise, which is shared by Ukraine, that the cost of implementing sanctions should be viewed as the opportunity cost of a possible alternative to an international military action or peacekeeping operation. Indeed, since the costs of such military or peacekeeping operations are internationally shared, the cost of carrying out economic sanctions should also be borne on a more equitable basis (para. 37).

29. The strong recommendation of the ad hoc expert group that, in the most severe cases, the Secretary-General should appoint a Special Representative entrusted with the specific tasks, as outlined in paragraphs 54 to 57, to undertake a full assessment of consequences incurred by third States and to

identify appropriate and adequate measures of assistance is particularly commendable and should be generally acceptable as the central unifying point in the conclusions of the ad hoc expert group meeting.

30. In addition to the conclusions and recommendations presented by the ad hoc expert group in its report, Ukraine deems it necessary to add the following three points for consideration:

(a) First, Ukraine continues to uphold the idea of creating a standing Security Council sanctions committee, which would carry out its functions with an appropriate degree of transparency and which could be charged, in particular, with the responsibility of monitoring and assessing the political, economic, social and humanitarian effects of sanctions, coordinating the relevant activities within the Secretariat, as well as by the concerned organizations both within and outside the United Nations system, estimating potential and actual losses and costs incurred by third States, collating information on international assistance available to such States and elaborating ways and means to ensure the effectiveness of sanctions and to minimize their collateral damage. Thus, the proposed mechanism would integrate important elements of both the improved capacity for enforcement of sanctions and the practical implementation of Charter provisions related to assistance to third States affected by the application of sanctions.

(b) Second, exploring innovative and practical measures of assistance to third States should also include the provision of a special or preferential treatment for the suppliers from affected non-target States in allocating them appropriate quotas for legitimate humanitarian supplies to the target countries, material supplies for the United Nations peacekeeping operations and participation in international efforts for post-conflict rehabilitation, reconstruction and development. For example, this concept of broadening access for suppliers from the affected third States to participate actively in the relevant humanitarian, peacekeeping and reconstruction efforts has been an integral part of General Assembly resolutions on economic assistance to States affected by the implementation of the Security Council resolutions imposing sanctions on the Federal Republic of Yugoslavia.

(c) Third, Ukraine would like to recall its previous proposals, which were made in the course of discussions at the United Nations on sanctions-related issues, with regard to possible ways of partial compensation of losses sustained by the affected third countries. In particular, reference is made to the letter dated 8 June 1995 from the President of Ukraine addressed to the Secretary-General proposing a number of practical measures for alleviating the negative impact on third countries of sanctions imposed by the Security Council under Chapter VII of the Charter (see A/50/259-S/1995/517). It is of the strong view that those proposals remain fully valid to date.

31. Ukraine believes that the report of the ad hoc expert group, along with the views, ideas and proposals submitted by States, the organizations of the United Nations system, international financial institutions and other relevant international organizations constitute a sufficient basis for reaching an agreement on the issue of practical implementation of Article 50 and other provisions of the Charter pertaining to the question of assistance in the implementation of sanctions. The time is ripe for turning from discussions to a new phase of formulating agreed guidelines for action.

## V. Comments provided by the relevant international organizations and institutions inside and outside the United Nations system regarding the report of the ad hoc expert group meeting and related issues of international assistance to third States affected by the application of sanctions

32. With a view to implementing further paragraphs 4 and 6 of General Assembly resolution 53/107, the Secretary-General sought the views of the organizations of the United Nations system, international financial institutions and other relevant international organizations regarding the report of the ad hoc group meeting referred to in paragraph 4 of the resolution, as well as any other relevant information pursuant to paragraph 6 of the same resolution.[3] Substantive features of the comments received are summarized below.

### Specialized agencies

33. The **International Labour Organization** (ILO) has been providing support and assistance to the so-called third countries affected by sanctions imposed on one of their neighbouring countries. It is in line with ILO's mandate to focus more on medium-term or longer-term assistance, but

occasionally immediate relief is also provided, as appropriate. All its activities are intended to enable third countries to cope better with the social effects of sanctions. It is recognized that there has been considerable strain and pressure on the labour market of those countries owing to sanctions and economic recession in the neighbouring countries. ILO has therefore been supporting and assisting the third countries through a wide range of different activities, aimed at combating the problems of unemployment or underemployment and of social protection. ILO considers social dialogue (bipartite or tripartite negotiation process between the social partners, i.e. workers' organizations and employers' associations and also the Governments) as a means of action as well as an objective. It has been proved that a stable social situation is a prerequisite for social and economic development. It contributes to the integration of social and civil groups into the decision-making process, which is also one way of involving ethnic minorities in society. This last aspect has often been neglected, and more recently, it has been the root of social unrest and civil war in a number of countries. Through practical and meaningful integration, unrest can be avoided or at least minimized.

34. The **Food and Agriculture Organization of the United Nations** (FAO) has carefully examined the report of the ad hoc expert group meeting on developing a methodology for assessing the consequences incurred by third States as a result of preventive or enforcement measures and on exploring innovative and practical measures of international assistance to the affected third States. FAO concurs that preventive or enforcement measures can be a source of hardship for third countries. Indeed, an increase in the degree of vulnerability to food insecurity is often one of the indirect consequences of such measures. Therefore, FAO does take such circumstances into account in the design and delivery of its humanitarian assistance, and agrees that a more systematic process of impact assessment, including drawing up of a tentative list of potential effects of sanctions on third States, would facilitate humanitarian operations, should these be required. FAO would be pleased to participate in an inter-agency subgroup dealing with the social and humanitarian effects of sanctions, provided the working methods of the subgroup could be managed mainly through the use of electronic communication methods.

35. The **World Health Organization** (WHO) observed that General Assembly resolution 53/107 is in line with the principles contained in the WHO Constitution stating that the health of all peoples is fundamental to the attainment of peace and security. In 1988 and 1989, the World Health Assembly adopted two resolutions dealing with embargoes on medical supplies and their effects on health (WHA41.31 and WHA42.24). Thus, WHO is fully aware of the consequences of macroeconomic deterioration in third States affected by the application of sanctions and of the possible impact of sanctions on the health sector. WHO is equally concerned to ensure that the health budget at all levels should be maintained as a basic essential priority, not treated as an optional or discretionary budget. Increasing evidence shows that the maintenance of accessible public and personal health services constitutes a fundamental element in the economic and social fabric. WHO would like to stress the need for concerted international cooperation and mutual assistance to third States affected by the application of sanctions in order to ensure that the adverse effects of embargo are minimized. In accordance with its mandate, WHO will continue to play a lead role in assessing the health consequences for populations, both in countries under embargo and in third States affected by the application of sanctions, with special reference to the most vulnerable groups (children, migrants, refugees, etc.).

36. The **International Monetary Fund** (IMF) was apprised of the report of the ad hoc expert group meeting on assistance to third States affected by the application of sanctions and found the recommendations to be comprehensive and practical. Regarding the specific requests of General Assembly resolution 53/107, reference was made to the Fund's earlier submissions for the previous reports of the Secretary-General on the subject, particularly with regard to the sanctions imposed on the Federal Republic of Yugoslavia and Iraq. It is recalled that the Fund has in the past provided policy advice and made financial assistance available to countries experiencing balance-of-payments difficulties. At present, Fund staff continue to ensure that the specific needs and circumstances of affected countries are incorporated in the policy advice and technical assistance provided. The Fund continues to work closely with those countries that face difficulties resulting from their implementation of United Nations sanctions, including information on specific ways in which to improve procedures for consultations with those States.

37. The **United Nations Industrial Development Organization** (UNIDO) has been concerned to ensure that its development assistance programmes make a positive contribution to dealing with the special needs of States affected by the application of sanctions. UNIDO's approach of preparing integrated country programmes is in line with the recommendations summarized in the report of the ad hoc expert group meeting and in particular the group's

recommendations for improved coordination of agency programming, resource mobilization and assistance delivery efforts for the benefit of affected third States. In relation to the case of sanctions imposed on Iraq, UNIDO activities in the affected countries of the region aim at enhancing the employment opportunities, mainly through the development or strengthening of the private sector, small and medium-size enterprises (SMEs), capacity-building, as well as investment and technology promotion. In Jordan, UNIDO will assist in the creation of job opportunities through the strengthening of the industrial sector at large and in particular through the formulation, implementation and monitoring of the industrial policy and strategy with focus on SMEs. The Integrated Programme for the Syrian Arab Republic will have a similar thrust. In Lebanon, UNIDO is active in the field of investment promotion while a new integrated programme will focus on capacity-building for entrepreneurship and on SMEs in metalworking at the regional level.

38. In addition, UNIDO's response to the expert group meeting's report calls for strengthened regional cooperation and improved dialogue to reduce the negative effects of sanctions on third States. These are reflected in initiatives undertaken by UNIDO for the planned subregional forums and the upgrading of certain national UNIDO country offices to regional offices, with a view to developing regional integrated programmes to address the special economic problems of the affected countries. UNIDO's experiences in this context suggest that the most effective approach is to combine development cooperation in the area of investment and technology promotion with assistance in other key areas, including: business development centres, with the emphasis on fostering entrepreneurship and supporting the creation of SMEs in the affected countries; the introduction of cleaner production techniques and technologies as well as those related to waste management, with the emphasis on institutional capacity-building; and on strengthening the national capacity in industrial policy-making.

## United Nations programmes and funds

39. The **United Nations Conference on Trade and Development** (UNCTAD) finds the report of the ad hoc expert group meeting on developing a methodology for measuring the impact of sanctions on third parties and on exploring measures of international assistance to the affected third States to be fairly complete in that it covers the many aspects and difficulties of dealing with these issues, is based on relevant information and analyses, and relies on expertise from a geographically diversified group of experts.

40. Regarding the methodology for assessing the consequences incurred by third States as a result of sanctions, UNCTAD observes that the five methods proposed by the group for the impact assessment are fairly solid and are commonly used in various types of economic analyses. Each of them has strong and weak points, hence a combination of several methods should be applied rather than a single one. The "perception surveys" method (paras. 31-34) seems to be the weakest one, given that it depends on inputs based on personal perceptions. It is recognized that a key challenge in the impact analysis would be to separate the effect of sanctions from other factors causing economic change. Another problem is that several methods discussed in the report do not capture offsetting effects that may result from the sanctions. One aspect which is not discussed in the report but which should not be neglected is the likely development of the black-market or underground economy as a result of sanctions. In that event, this will inevitably have economic effects on neighbouring countries and some of the proposed methods should be enhanced to capture these effects.

41. On the measures of international assistance to third States affected by the application of sanctions, UNCTAD feels that further and more specific reference should have been made throughout the report to the special problems and needs of affected developing countries. Taking preventive action (paras. 38 and 39) is key, especially the suggested prior consultations with non-target countries most likely to be affected by possible sanctions. This would allow such countries to redirect their trade flows early on and take other necessary measures to minimize the impact of sanctions. It could also reduce the assistance needed once sanctions have become effective. On the actual assistance, the report notes that "financial assistance may need to be supplemented by non-financial measures of trade promotion, including granting of special trade preferences, adjustment of tariffs, allocation of quotas ..." (para. 44). The World Trade Organization (WTO) and UNCTAD are equipped to provide the necessary technical assistance, but more resources would be required for this purpose. The question arises as to how these measures could be implemented on an ad hoc basis, given the WTO framework and the existing contractual agreements. Some further clarification may be needed in that regard.

42. The **United Nations Environment Programme** (UNEP) perceives that the consequences incurred by third States in the application of sanctions are both complex and diverse from the environmental perspective. Over the last few years, UNEP has gained valuable experience in assessing the impacts of sanctions on third States,

particularly in the field of environment. However, the isolated cases of UNEP's involvement in relevant matters have not yet led to the development of a consistent methodology of impact assessment; instead UNEP has adopted a flexible approach based on the specific conditions of each case.

43. In the case of the Gulf conflict, the sanctions imposed on Iraq under Chapter VII of the Charter of the United Nations were preceded and followed by armed interventions. As a result, third States in the region were affected by economic sanctions as well as by military operations. In that regard, UNEP played a lead role in assessing the environmental impact of the Gulf war in the four countries neighbouring Iraq, namely, Bahrain, Jordan, Kuwait and Saudi Arabia. Reports were prepared on the environmental impact pertaining to soil, air and the marine environment; effects on human health and ecosystems were also documented by an inter-agency task force on the matter.

44. Most recently, UNEP has been assuming an active role in the Balkan region, which was affected by the sanctions imposed under Chapter VII of the Charter on the Federal Republic of Yugoslavia and by the military operation in Kosovo led by the North Atlantic Treaty Organization (NATO). A special team was sent by UNEP to the Balkans to assess the environmental impact of the conflict, not only on Kosovo, but also on the neighbouring countries of the region, such as Albania, Bulgaria, the former Yugoslav Republic of Macedonia and Romania. The Balkan Task Force has submitted an interim report to the Secretary-General.

45. The **Office of the United Nations High Commissioner for Refugees** (UNHCR) commended the work of the ad hoc expert group and took note with interest of its valuable proposals concerning a possible methodology for assessing the consequences incurred by third States as a result of the application of sanctions. In this context, UNHCR was particularly encouraged by the attention drawn to possible social costs sustained by such States, including those resulting from an influx of refugees (para. 19). On that subject, UNHCR would add that even where sanctions do not cause new outflows of refugees, they may weaken the capacity of countries of asylum to uphold high standards of protection, while complicating the prospects for durable solutions. As regards methods of impact assessment (paras. 21-33), UNHCR recalled that within the Inter-Agency Standing Committee mechanisms, studies had been conducted on methodologies and indicators to assess the humanitarian effects of sanctions on vulnerable groups, including refugees and internally displaced persons. Similarly, and in line with observations of the expert group (para. 34), humanitarian agencies have resorted to assessment missions and found such missions to be an essential means of gaining accurate data, provided of course that access to vulnerable populations has been ensured.

46. UNHCR is also in agreement with the expert group's proposals concerning innovative and practical measures of international assistance to the affected third States and fully endorses the concept of burden-sharing (para. 36). The latter is an issue of ongoing concern to the Executive Committee of the High Commissioner's Programme and was the subject of its annual theme in 1998. UNHCR also supports the various proposals on minimizing collateral damage of sanctions (paras. 39 and 41-42), subject to the limitations of its mandate. As regards the group's discussion of the role of the United Nations development programmes and agencies in providing emergency relief and assistance for alleviating the social and humanitarian effects of sanctions (para. 45), UNHCR recalled the fact that mechanisms for situations that can be characterized as complex emergencies already exist through the Inter-Agency Standing Committee and expressed the view that any future ad hoc arrangements for special assistance purposes could draw on the existing ones.

47. UNHCR has also taken careful note of the conclusions and recommendations of the expert group, notably the proposed appointment of a Special Representative of the Secretary-General in the most severe cases, the establishment of suitable inter-agency arrangement comprising subgroups of which one would deal with the social and humanitarian effects of sanctions with particular reference to the most vulnerable social groups (including refugees), and the preparation of impact assessments and action-oriented proposals. In this connection, UNHCR has confirmed its willingness to participate in any institutional mechanisms decided upon by the Secretary-General, insofar as the envisaged activities are within UNHCR's mandate.

48. The **United Nations Population Fund** (UNFPA) expressed the view that the report of the ad hoc expert group meeting is a very well-argued treatise on the consequences of preventive or enforcement measures for countries directly as well as indirectly affected as a result of such measures. The presence of both direct and indirect effects makes the task of arriving at a general assessment mechanism very difficult. According to its mandate, UNFPA deals with health-related issues and therefore is primarily concerned with indirect (i.e., social and humanitarian) effects of sanctions on programming countries. Thus, specific examples of factors affecting UNFPA programming could include: reduction in the health budgets of the affected countries in the face of dwindling assistance; difficulties of access to health facilities owing to restrictions on

movements or infrastructure; disruption of the education process, especially concerning health and population matters; mass movements of populations and problems associated with making reproductive health facilities available on an emergency basis, where required. Since most of the above factors relate to the area of emergency relief and humanitarian assistance, UNFPA does not see the viability of any quantitative analysis of such factors; instead, it deems it important to continue treating such situations as emergencies and to seek viable solutions with a view to integrating them into a development continuum. As regards the five quantitative methods indicated in the report, UNFPA views the analytic hierarchy process for perception surveys as most promising and of great potential for use in system-wide analysis and prognostication. In general, however, from its own perspective, UNFPA does not favour a quantitative approach to the matter.

49. Regarding innovative and practical measures of assistance to third States affected by the application of sanctions, UNFPA agrees with the expert group's general considerations about the importance of seeking solutions from the development angle and the concept of burden-sharing, especially given the opportunity cost of peacekeeping operations and other alternative measures. With a view to minimizing collateral damage of sanctions, UNFPA welcomes the practice of limited exemptions from the sanctions regime, agrees with the proposal for greater studies of the potential effects of sanctions on populations prior to the imposition of such measures and supports the concept of targeted sanctions as a better option, for its focus on targeting the offenders without hurting the innocent civilian populations. While recognizing the important role of the Bretton Woods institutions as a venue for limited relief measures, UNFPA considers that the emergency relief and assistance provided by the United Nations development organizations, including UNFPA, could be most significant. In addition, it is essential that regional cooperation be made the basis of any framework for alleviating the adverse effects of sanctions.

50. On conclusions and recommendations of the ad hoc expert group meeting, UNFPA agrees that the issues of developing a methodology for impact assessment and of exploring innovative and practical measures of assistance are equally important and, to an extent, interdependent. However, it feels that a general framework for impact assessment may be difficult to achieve in the absence of a more interactive group within the United Nations, which should include development programmes and funds present in the field. The proposal on appointing a Special Representative of the Secretary-General who would have the ultimate responsibility for the whole process of impact assessment has to be thought out in greater detail, especially in the presence of several smaller actors within the United Nations system who play an important role in the field, but are seldom consulted during the decision-making process on sanctions-related matters in the political realm.

## United Nations regional commissions

51. The **Economic Commission for Europe** (ECE) provided detailed comments on the report of the ad hoc expert group meeting, including some suggestions for improvements in assessing and addressing the special economic problems of third States affected by the application of sanctions. ECE observed that the first substantive part of the report (A/53/312, sect. IV.A) contains a comprehensive and complete summary of the main theoretical findings regarding the methodology of assessing the economic impact of sanctions on third States as well as the applied aspects of this problem. In the view of ECE, the report correctly emphasizes the considerable theoretical ambiguity related to the quantitative evaluation of this impact and the enormous difficulties encountered in its practical application. At the current level of knowledge, the problem is still very much open-ended; the available methodological approaches do not provide straightforward and unequivocal assessments; and in the absence of sound and indisputable estimates, the level of subjective judgement is often above an acceptable threshold. All this adds to the general problems and difficulties of implementing the provisions of Article 50 of the Charter of the United Nations which implicitly stipulates that affected third States may be entitled to assistance from the international community. Notwithstanding these problems, ECE considers that the report has taken a correct and pragmatic approach, showing that the above difficulties are not insurmountable; it contains valuable observations, conclusions and recommendations regarding the practical steps that need to be taken when assessing the economic effects of sanctions on third States. As such, the report is regarded by ECE as a valuable working guideline for decision-making bodies that are or may be involved in issues related to the quantitative evaluation of such consequences.

52. ECE agrees with the expert group's understanding of the economic impact of sanctions on third States as an external shock to their economies. However, problems may arise when analysts attempt to identify and quantify precisely the impact of this sanctions-specific shock and, in particular, to differentiate it from other shocks that may

occur at the same time. In this regard, the impact assessment methodology presented in the report should also take into account possible implications for the affected country of its current position within the phases of the business cycle, for example, if the economy is in a contraction phase and, other factors being equal, applying the "shock impact methodology" may yield a downward bias in the evaluation of negative effects (consequently, the latter may be overestimated); conversely, if the economy is in the expansion phase, and other things equal, the impact of the shock may be underestimated (owing to the possible upward bias). Hence, in practical applications of "shock impact methodology", it may be necessary to introduce an adjustment to the "reference point", in order to reflect the actual cyclical position of the affected country at the moment of assessment.

53. In the opinion of ECE, the section on sources of hardship (paras. 13-20) provides a useful synopsis and categorization of the potential economic effects of sanctions on third States. Measurement problems abound, particularly when the relevant distinction between gross and net losses is made. The problem becomes even more complex if a differentiation is sought between temporary losses and once-and-for-all (permanent) losses. The report is correct to emphasize the need for a benchmark (baseline scenario), i.e. a projection of the most plausible development which would have ensued in the absence of sanctions. In this regard, "direct effects" could be defined as the income (and output) foregone of economic agents in third countries which have legally binding economic relations with counterparts in the target country at the time when sanctions are being imposed. "Indirect effects" could then be defined as the first-round effects on derived income (and output) of other domestic economic agents in a given third country. "Secondary effects" would then include the spillover effects of these adverse changes from one third country to another via international trade linkages.

54. ECE is not encouraged by the brief description of four main methods to quantify the economic effects of sanctions on third States (paras. 22-30), in view of the elaborate data requirements and, in more general terms, the large standard errors which can surround model-based estimates of economic shocks. Given the envisaged emphasis of assessing the impacts of sanctions on developing countries (and economies in transition), the available statistics will allow, in general, for only a rather crude estimation of losses and costs incurred by those countries. In practical terms, rules of thumb and common sense are more likely to often replace these rather sophisticated approaches.

55. ECE took note of the second substantive part of the report (sect. IV.B), which outlines a number of possible practical measures, some of them indeed innovative, of international assistance that could be provided to third States affected by the application of sanctions. ECE sees it as a critical issue for the effectual implementation of sanctions imposed by the Security Council on a target State, since most seriously affected third States are usually the neighbouring countries whose compliance with the measures envisaged by the sanctions regime is of crucial importance for their effectiveness. The lack of efficient mechanisms of burden-sharing and equitable distribution of costs may undermine the resolution of the affected third States to fully cooperate in the enforcement of all the necessary measures. However, past experience reveals a number of cases when some severely affected third countries have repeatedly voiced their discontent at the lack of adequate response by the international community to the hardships endured by them as a result of sanctions imposed by the Security Council. The sanctions-related problems are particularly acute for developing countries or economies in transition that are already in a difficult economic situation. Hence, there is an urgent need for expanding and improving the efficiency of the existing mechanisms and facilities at the disposal of the international community to respond adequately and swiftly in providing assistance to such third States.

56. ECE agrees with the findings of the expert group that stress the basic concept of burden-sharing and equitable distribution of costs, as stipulated in Articles 49 and 50 of the Charter of the United Nations. The measures proposed by the expert group include those that do not have direct financial implications for the international community (such as limited exemptions, or preferential access to certain markets) and those that do have such implications (e.g., additional financial assistance from the international financial institutions, including access to finance on preferential terms). In the opinion of ECE, some of the proposals from the second category raise a number of concerns as to their feasibility and long-term efficiency. Although ECE has no doubt that such measures, if adopted, would alleviate to some extent the short-term hardships endured by the affected third States, it believes that some of these measures may not always be sufficient to counterbalance the negative economic effects of sanctions on those countries, since most seriously affected States often incur direct and durable losses. Hence, simply raising the debt burden of these countries (as implied by most of the proposed measures of financial assistance) would not offset the actual losses and may even aggravate the economic situation of the affected country in the long run. Other

concerns relate to the operational principles and rules of the international financial institutions and the consequences for the general cost of finance.

57. As an alternative, ECE suggested that a special contingency standby fund be created, so that it could be activated in the case of imposition of sanctions by the Security Council. Such a fund could provide "emergency financial support to those affected third States on exceptional and concessionary terms" (para. 44), without the negative side effects mentioned above. It would also be preferable to provide assistance in the form of grants rather than increase the foreign debt of the affected countries. As the flows related to eventual financial support to third States are not large by international standards, the fund would not have to be very large. The resources of the fund would have to be raised from special contributions by the donor community and would need to be replenished from time to time. The fund could be jointly managed by the international financial institutions and the United Nations in order to ensure consistency and transparency in its operations.

58. ECE emphasized that the key factor of success in implementing any kind of assistance to third States affected by the application of sanctions is a strong political will to provide such assistance by the international community. The spirit of the report also suggests that, given the political will to tackle the problems at hand, efficient and practical solutions that would be acceptable to all the parties concerned can be found and implemented in practice. In order to create and maintain such political will, it is important to give broad publicity to this issue by widely disseminating relevant information on the subject, including the report of the ad hoc expert group meeting and the pertinent resolutions of the General Assembly, and above all by publicizing the costs borne by a few countries in supporting the decisions of the Security Council adopted in the name of the international community as a whole. In addition, a comprehensive study on the application of Article 50 of the Charter, including a comparative analysis of past experiences in the impact assessments actually carried out and the international assistance actually provided to the affected States, could be a useful handbook for policy makers.

59. The **Economic and Social Commission for Western Asia** (ESCWA) outlined a number of salient points related to the report of the ad hoc expert group meeting. On the issue of methodology for impact assessment, ESCWA emphasized the need for a strong presence of the United Nations regional commissions in the arrangements which may be put in place by the Secretary-General to assess the damage incurred by third States in their respective regions as a result of the imposition of sanctions. ESCWA agrees that the proposed assessment missions should be provided with a specific checklist of items that they should review and follow in carrying out the assessments. Moreover, the affected countries should be informed of the list in advance, to facilitate their cooperation. According to agreed-upon criteria, a list of the affected third States should be drawn up and should include only those countries that are seriously affected by the sanctions. The use of quantitative methods should be limited in scope and applied only when accurate data and information are available. ESCWA endorses the recommendation to designate a representative of the Secretary-General whose functions may include the determination of the appropriate methodology to be used for impact assessment.

60. On the issue of practical measures of international assistance to third States affected by the application of sanctions, ESCWA stressed the need for proper consultations with affected States and proposed to involve the regional commissions in such consultations. In this regard, it strongly endorsed the recommendation for promoting regional cooperation in providing assistance to the affected third States. Such assistance should include measures related to indirect effects of sanctions and should address such areas of concern as employment, displaced populations, returnees, etc. ESCWA also endorsed the recommendation concerning the need for holding special meetings between the affected third States and the donor community, with a view to improving the relevant assistance programmes; in its opinion, the regional commissions are well placed to provide the venue for, and assist in organizing, such meetings. It is also proposed to hold special pledging conferences to mobilize additional resources to help the affected third States to better cope with the effects of sanctions. With a view to minimizing the collateral damage of sanctions on the population of the target country and on third States, ESCWA supports the recommendations concerning the concept of targeted sanctions. It also shares the view that the task of monitoring the effects of sanctions is particularly important and should be accorded due attention to provide a clear picture of the impact of sanctions and to identify those third countries that have been most seriously affected. Moreover, consideration should be given to the potential impact on the target country and on third States prior to the imposition of sanctions and exemptions from the sanctions regime should be granted, when required, to minimize the hardship of third States.

61. In the ESCWA region, the economic sanctions imposed on Iraq since August 1990 have had a devastating impact on Iraq's economy and its people, and have adversely

affected a number of other countries, most notably Jordan, Egypt, Yemen and Lebanon. The third-party effects have been most noticeable in terms of lost export markets (e.g., Iraq accounted for more than 35 per cent of Jordan's total exports prior to the imposition of the sanctions), employment opportunities (e.g., more than 1 million Egyptian workers had been employed in Iraq before the sanctions came into force), as well as in several other economic and social sectors. More specific references to the adverse effects of the sanctions on the economies of its member States have been consistently made in the ESCWA Annual Survey of Economic and Social Developments in the Region.

## Regional development banks

62. The **Inter-American Development Bank** (IADB) stated that the report of the ad hoc expert group meeting provides a useful framework for analysing the ancillary impact of sanctions on third countries. As acknowledged in the document, however, it is extremely difficult to provide a "general methodology for impact assessment" because of the complex interactions and factors that must be addressed. Among the factors that require special attention is the impact on trade in both goods and services. In the opinion of the Bank, it might be useful to expand the items cited in this area to include transborder infrastructure assets in power and gas among others, which also create important trade linkages. Increasing globalization of commerce has expanded, and will continue to expand, these dependencies among countries, and thereby the vulnerability of one country to the sanctions imposed on another. Obviously, the analysis of the impact of sanctions must be tailored to the particular country and region on a case-by-case basis. Nonetheless, the methodology presented in the report appears to be a complete and useful basis for such an analysis.

63. In regard to paragraph 6 of General Assembly resolution 53/107 inviting international organizations and financial institutions to expand collaboration with the affected third States to address their special economic problems arising from the application of sanctions, the Inter-American Development Bank is open to specific requests for assistance. The Bank's current lending programme responds to the impact of various "exogenous" shocks which have beset the region over the past year. In this vein, the Bank is ready to consider specific requests from its borrowing member countries.

## Other relevant international and regional organizations

64. The **European Commission** responded to paragraphs 4 and 6 of General Assembly resolution 53/107. As regards the former, the Commission stated that when the Security Council decides to impose sanctions on a State (or parties within that State), there arises an obligation for all States Members of the United Nations to comply with those decisions. A situation is created whereby a State becomes the target of the sanctions, while all other States become what are often described as "senders". Although it can be stated that the sanctions regime is an issue between the Security Council and the target State(s), the concept of "third States" or "the effects on third States" is misleading, because there is, *strictu sensu*, not a category of States outside the target and the sender States. Therefore, it would be preferable to speak of third parties in the comments on the report of the ad hoc expert group meeting.

65. For obvious reasons, the effects on developing countries deserve special attention. In addition, experience has shown that the category of so-called "front-line" States also deserves special attention. Since economic sanctions almost always include the reduction of trade with the target country, and since trade is often most intensive with neighbouring States, the category of front-line States will normally coincide with the group of neighbouring States. But the issue of the economic effects of universally or worldwide applicable sanctions on third parties is an issue which concerns all sender States. Therefore, the report of the expert group meeting is of interest to all States Members of the United Nations. It quite rightly states that the actual impact of sanctions on individual States and their policy options to cope with the ensuing economic effects may differ substantially from case to case.

66. One may therefore doubt whether a general methodology for assessing the effects of sanctions can be developed, and even, in view of the small number of sanctions adopted by the Security Council, whether it would really be necessary. It may be sufficient to follow the pragmatic recommendations contained in the report in respect of the design phase of the sanctions and the subsequent investigations into their various socio-economic effects.

67. If, one the other hand, there is a reason to believe that the instrument of economic and financial sanctions will be used regularly or more frequently in the future, it may be worthwhile to provide a follow-up to the interesting suggestions in the report on how to measure the economic

and social effects of sanctions on sender States. Such a follow-up could possibly lead to a better understanding of the concept of burden-sharing involved for third parties, and therefore to the adoption of more effective sanctions regimes.

68. As regards paragraph 6 of General Assembly resolution 53/107, the European Community shares the concern about the special economic problems of third States affected by sanctions imposed under Chapter VII of the Charter of the United Nations. Such effects as part of the overall economic situation of a country are taken into account in the context of the European Union's regular dialogue, cooperation and assistance with regard to the countries concerned. This applies, for example, to the African-Caribbean Pacific (APC) Group of States within the Lomé Convention framework, to countries under the European Union's enhanced pre-accession strategy and eligible for PHARE assistance, and to those that will benefit from the European Union's Stabilization and Association process for countries of south-eastern Europe. In addition, the economic effects of sanctions are also taken into account in the case of emergency assistance provided through ECHO.

69. The **Organisation for Economic Cooperation and Development** (OECD) stated that, although the impact of sanctions has many implications which are only partly related to aid and development cooperation, some aspects of the ongoing activities of the Development Assistance Committee (DAC) are relevant to General Assembly resolution 53/107. In particular, reference is made to some components of the work programme of the DAC Informal Task Force on Conflict, Peace, and Development Cooperation. At a general level, OECD recalls the relevant elements of its main policy framework in the above area, Guidelines on Conflict, Peace, and Development Cooperation,[4] which was approved by DAC in May 1997. In the section entitled "Bridging the gap between early warning and early action" (para. 32), the document refers to sanctions as one of the possible instruments for multilateral and bilateral preventive assistance, the others being policy dialogue, démarches supporting peace processes and actions to deal with impeding conflict. The need for a coherent use of such instruments within a clear and sound conflict prevention strategy is stressed in the document, recognizing at the same time the role that effective coordination mechanisms can play in this respect. The last chapter of the Guidelines, devoted to regional approaches to conflict prevention and peace-building, focuses more on the impact of destabilizing factors at the regional level. By paying attention to the needs for a concerted action of the international community to address the regional dimensions of the root causes of conflict, the chapter calls for a coordinated regional approach that should be based on a set of agreed principles. The principles should affirm the commitment of member States to existing norms and standards defined by the United Nations and international law and draw upon existing regional instruments.

70. More specifically, OECD reports that the DAC Informal Task Force has recently launched a study on the role of aid as an incentive and/or disincentive for peace in situations of violent conflict or in conflict-prone areas. It could provide some elements to complement the analysis of the ad hoc expert group on a possible methodology for assessing the consequences actually incurred by third States as a result of preventive or enforcement measures and on exploring innovative and practical measures of assistance to the affected third States. The project is based on four case studies — Afghanistan, Bosnia and Herzegovina, Rwanda and Sri Lanka — and aims at identifying best practices in order to provide lessons for the international community on peace-building and conflict prevention. As the study has not yet been completed, it is too early to draw any general conclusions at this stage. Furthermore, it does not address specifically humanitarian or development aid with respect to the impact of sanctions, whose role depends to a large extent on the nature of sanctions, as well as on the economic relations between the affected third States and the sanctioned country. However, some preliminary results seem to show that aid alone can play only a limited role with respect to the three categories of possible effects of sanctions on third States, i.e. economic, trade and financial effects; social and humanitarian effects; and secondary effects as indicated in the report of the ad hoc expert group meeting. The role of aid should be considered within the framework of the direct and indirect effects of the whole range of instruments used by the international community to build peace, to prevent conflict and to act in conflict situations. When aid can play a role, however, improved donor coordination and increased policy coherence are basic prerequisites for a more effective action based on the principle of local ownership of the peace-building process. The study takes into account both the regional dimensions of conflict dynamics and the regional impact of violent conflict, calling for greater coordination of international action at the regional level, as well as at the national and local levels, including through mechanisms of joint evaluations and assessments.

# VI. Recent developments related to the role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in the area of assistance to third States affected by the application of sanctions

## Economic and Social Council

71. By a note dated 12 May 1999 on assistance to third States affected by the application of sanctions (E/1999/51), the Secretary-General drew the attention of the members of the Economic and Social Council to paragraph 5 of General Assembly resolution 53/107, in which the Assembly, *inter alia*, decided to transmit the report of the ad hoc expert group meeting convened in June 1998 pursuant to its resolution 52/162, to the Council at its substantive session of 1999. Accordingly, the Economic and Social Council, at its substantive session held at Geneva from 5 to 30 July 1999, had before it the report of the Secretary-General on implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions (A/53/312), which included a summary of the deliberations and main findings of the ad hoc expert group meeting in question.

72. In its resolution 1999/59 of 30 July 1999, entitled "Assistance to third States affected by the application of sanctions", the Economic and Social Council took note of the summary of the deliberations and main findings of the ad hoc expert group meeting on developing a methodology for assessing the consequences incurred by third States as a result of preventive or enforcement measures and on exploring innovative and practical measures of international assistance to the affected third States as contained in section IV of the report of the Secretary-General on implementation of provisions of the Charter related to assistance to third States affected by the application of sanctions (ibid.). In the same resolution, the Council reaffirmed the important role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in mobilizing and monitoring, as appropriate, the economic assistance efforts by the international community and the United Nations system to States confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council and, as appropriate, in identifying solutions to the special economic problems of those States, and decided to continue consideration of the question taking into account the relevant decisions of the General Assembly.

## Committee for Programme and Coordination

73. The Committee for Programme and Coordination, at its thirty-ninth session, held in New York from 7 June to 2 July 1999, considered the annual overview report of the Administrative Committee on Coordination for 1998 (E/1999/48), which included a chapter entitled "Assistance to countries invoking Article 50 of the Charter of the United Nations". In its conclusions and recommendations, the Committee took note of the overview report's treatment of Article 50 of the Charter concerning the impact of sanctions on third-party States and conveyed a strong message that it is time to move from words to action and to provide the necessary assistance to the affected countries. At the same time, the Committee noted that it needs to be kept informed on any activities and progress in the field.[5]

*Notes*

[1] The original reply was submitted in Russian.

[2] The original reply was submitted in Russian.

[3] On behalf of the Secretary-General, the Under-Secretary-General for Economic and Social Affairs addressed a series of letters to the executive heads of 27 relevant international organizations and institutions, both inside and outside the United Nations system, drawing their attention to General Assembly resolution 53/107 and inviting their views and other relevant information on the issues referred to in paragraphs 4 and 6 of the resolution. As at 20 September 1999, a total of 19 replies had been received.

[4] See "Conflict, Peace and Development Cooperation on the Threshold of the 21st Century". Development Cooperation Guidelines Series. OECD, Paris, 1998.

[5] See *Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 16* (A/54/16), para. 565.

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**Macroeconomic policy questions: financing of development, including net transfer of resources between developing and developed countries**

## Letter dated 20 September 1999 from the Permanent Representative of Mexico to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a letter addressed to you by Ambassador Rosario Green, Secretary for Foreign Affairs of Mexico, concerning the High-Level Regional Meeting "Towards a stable and predictable international financial system and its relationship to social development", held in Mexico City from 5 to 7 September 1999 under the auspices of the Government of Mexico and in collaboration with the Economic Commission for Latin America and the Caribbean (ECLAC).

I should be grateful if you would have this letter and its annex circulated as a document of the General Assembly under agenda item 97 (b).

(*Signed*) Manuel **Tello**
Permanent Representative of Mexico to the United Nations

99-27208 (E) 131099 181099

# Annex

## Letter dated 20 September 1999 from the Secretary for Foreign Affairs of Mexico addressed to the Secretary-General

I have the pleasure to refer to the High-Level Regional Meeting "Towards a stable and predictable international financial system and its relationship to social development", held in Mexico City from 5 to 7 September 1999 under the auspices of the Government of Mexico and in collaboration with the Economic Commission for Latin America and the Caribbean (ECLAC), for the purpose of supporting the process of reflection initiated by resolution 53/172, which the General Assembly adopted without a vote on 15 December 1998.

In this connection, I am pleased to transmit herewith the report of the Meeting (see appendix), which, I trust, contains elements that may contribute to the report which you are to submit to the General Assembly at its fifty-fourth session, pursuant to the above-mentioned resolution.

I take this opportunity to reiterate the high priority which Mexico accords to the development of methods for enabling the international community to forestall recurrent financial crises, with a view to ensuring global financial security.

I appreciate your valuable support and cooperation for the organization of this Meeting, as well as the participation and contribution of ECLAC, the Organization's Department of Economic and Social Affairs and the United Nations Conference on Trade and Development.

(*Signed*) Rosario **Green**
Secretary for Foreign Affairs

# Appendix

## High-Level Regional Meeting "Towards a stable and predictable international financial system and its relationship to social development"

### Conclusions by the Chairman

In its resolution 53/172, the United Nations General Assembly requested the Secretary-General to submit a report on current trends in global financial flows and modalities to improve early warning, prevention and response capabilities for dealing with financial crises, taking a comprehensive and long-term perspective, while remaining responsive to the challenges of development and the protection of the most vulnerable countries and social groups.

Pursuant to this resolution, and with a view to contributing to the report which Secretary-General Kofi Annan is to submit to the General Assembly at its fifty-fourth session, the High-Level Regional Meeting "Towards a stable and predictable international financial system and its relationship to social development" was held in Mexico City from 5 to 7 September 1999 at the initiative of the Mexican Government and with the support of ECLAC.

The chief topics and conclusions of this event, which are being submitted to the Secretary-General for his consideration, are the following:

1. The financial crises of recent years, whose effects have had a profound impact on the international system as a whole, have revealed the destabilizing capacity of international financial markets; the insufficiency of isolated actions; the urgent need to identify and agree on preventive measures that can be implemented at the national, regional and global levels; and the need for a stable financial system as a prerequisite for the advancement of the social agenda and of a new development strategy.

2. The recurrence, intensification and complexity of global phenomena, as well as their systemic nature, make it imperative to redesign existing international cooperation mechanisms to address the causes of and solutions to problems that transcend national borders, as well as measures for forestalling them. Because worldwide economic problems pose a challenge to the social development efforts of individual countries, these issues should be approached in an integrated manner that involves national Governments, regional and multilateral organizations and relevant market actors.

3. The economies most severely affected by these crises have recently begun to recover. However, this should not give rise to an attitude of complacency in international financial circles. It is important that all countries, regardless of whether or not they were hit by crises, should redouble their efforts to prevent future episodes of instability. The Latin American and Caribbean region views international financial stability as a global social good and considers that the region should participate, on the basis of shared responsibility, in processes aimed at strengthening global financial governance.

### I. The progress and challenges of a new international financial architecture

4. International financial institutions should reformulate their policies to address the major challenges posed by financial markets and to make the changes needed to forestall and avoid additional crises. Each institution's unique characteristics should be taken into account so that, through the clear definition of each entity's functions, duplication can be avoided and operations can be made more efficient.

5. The design of mechanisms to provide financing in times of difficulty is an important feature of the new international financial architecture. However, the magnitude of the recent financial crises and the volume of resources needed to provide markets with liquidity in times of instability make it impossible for international financial institutions to act as lenders of last resort in crisis situations.

6. The financial institutions' quota system must be revised to make more resources available for providing timely support to economies in difficulty. It is also necessary, in this connection, to seek complementary sources of liquidity, such as the anticyclical use of special drawing rights, and to set up regional reserve funds and strengthen existing ones.

7. Strategies such as the contingent credit lines designed recently by the International Monetary Fund (IMF) represent a step forward. The requirements for obtaining these resources must be clear and made known in advance, and these credit lines must be sufficient, timely and accessible.

8. Crisis prevention and management require greater consistency and harmonization among national and multilateral policies, though this does not necessarily imply that all policies should follow the same model or that each country's economic and social conditions should not be taken into account. More effective supervision and coordination, with an emphasis on prevention, are necessary in this regard. Notable in this connection are the contributions developed by the Latin American and Caribbean countries through their financial stabilization and adjustment programmes.

9. An early warning and prevention system must be developed to prevent or, as the case may be, to take timely action to address the threat of a financial crisis. Encouraging in this regard are the efforts made by IMF to develop empirical models to help predict balance-of-payments crises. It is essential to recognize the changing nature of such crises and the variability of their causes, as well as the possibility of contagion to fundamentally sound economies.

10. It is important to ensure the transparency of international financial markets and particularly that of short-term capital flows, and to improve methods of collecting and disseminating economic information.

11. Banking and financial supervision and regulation are basic pillars of stability in international financial markets. Progress should continue to be made in designing appropriate regulatory frameworks, taking into account the standards of the Basel Committee on Banking Supervision and of the International Organization of Securities Commissions (IOSCO) and placing special emphasis on the needs of developing countries.

12. One important component of the reform of the international financial architecture should be the strengthening of incentives for industrialized countries to take more disciplined investment decisions, reduce leveraging and limit systemic risks, and establish supervisory arrangements for extraterritorial financial centres.

13. The private sector's shared responsibility for crisis prevention and resolution should be strengthened. Creditors should effectively assume their share of the risk involved in granting credits. The measures which have been proposed are aimed at reducing the moral hazard that arises when creditors and investors are repeatedly bailed out and at spreading the burden of crises more equitably between the public and private sectors and between countries that receive capital and the creditors and investors.

14. Sovereign risk rating should be subject to strict, objective parameters that are publicly known. It is important that risk-rating agencies should provide complete, periodic and consistent information.

15. The orderly liberalization of capital flows is essential for enabling countries to gain access to resources for development and productive investment. An appropriate institutional framework must be set up to facilitate productive investment and to limit the volatility of short-term flows. In the absence of clear international rules on the management of speculative capital, both at the source and in recipient countries, each country should safeguard its capital account in a manner consistent with its exchange-rate system and with the use of market instruments and mechanisms.

16. It is essential to define the role of multilateral organizations and regional and subregional institutions in all these tasks and to ensure the equitable representation of developing countries in the design and implementation of the relevant mechanisms.

17. In this connection, it is important that the studies and consultations being conducted by the developed countries in the context of the Group of Seven should be concluded, with the support of the Bretton Woods institutions and of those countries' central banks. The developing countries' regional groups and coalitions, such as the Group of 77, the Group of 24, the Group of 15 and the Rio Group, should strengthen their participation in the dialogue with the Group of Seven, other industrialized countries and international financial institutions, with a view to ensuring the consistency and universality of economic policy measures and to designing and setting up the new international financial architecture. Regional and subregional financial institutions have a key role to play in this endeavour.

## II. The challenges of social development in a context of financial globalization

18. The financial crises of the 1990s not only affected the international financial system, but also had a devastating impact on the social development efforts of the countries involved. This situation is particularly serious in view of current poverty levels.

19. Global flows of official development assistance from donor countries have fallen to 0.22 per cent of the gross national product (GNP) of the developed countries, reaching their lowest level in the past 20 years. Efforts must be redoubled to honour the commitments made at the World Summit for Social Development; that is, donor countries should earmark 0.7 per cent of their GNP for official development assistance and recipient countries, in turn, should allocate an average of 20 per cent of this official assistance to social development programmes and 20 per cent of their national budget to basic social programmes.

20. It is important to stimulate productive investment and to provide financing, on easy terms, to the least developed countries to alleviate their debt burden. We therefore support the Heavily Indebted Poor Countries (HIPC) Debt Initiative. In this connection, it was stressed that the cost of debt relief for regional and subregional multilateral institutions should be financed in accordance with the capacity to pay and the level of development of all borrower and non-borrower countries of the multilateral institutions themselves. Moreover, donations from international funds under this initiative should be used primarily to support regional and subregional banks and to alleviate bilateral debt between developing countries.

21. IMF adjustment programmes aimed at correcting the structural causes of crises should take care not to result in an overadjustment of the economies concerned, since this could bring about severe declines in economic activity or sharp reductions in social expenditure.

22. It is the sovereign right of each country to determine its own level of social expenditure, based on its own resources and conditions. Efforts must be made to harmonize economic and social development, achieve a more equitable distribution of income, promote gender equity and implement proactive social policies, with special emphasis on the needs

of the most vulnerable groups, such as children, women, the disabled, the elderly, indigenous persons and the unemployed.

23. International development banks, particularly the World Bank and the Inter-American Development Bank, should focus on the provision of financial support for social safety nets and should consider the promotion of human development as their ultimate goal. Governments, for their part, should strive for universal improvement of social services, carry out macroeconomic and social policies in a mutually compatible manner and minimize the economic and social costs of financial crises.

## III. The role of the United Nations in designing an international financial strategy with social ramifications

The participants in the Meeting arrived at the following conclusions, which, in their view, should be considered by the United Nations, as the world political body par excellence.

24. The structural problems of the international financial system, which gave rise to the crises of recent years, remain unresolved. We are concerned to note that success in addressing their most obvious effects is currently giving rise to complacency and to the slackening of efforts towards systemic reform. The countries of Latin America and the Caribbean stand ready to play an active role, along with other developing regions, in giving new impetus to the reform process.

25. A new national and international development strategy should take into account the challenges and opportunities offered by globalization. The financial aspect of such a strategy is a key component of efforts to promote sustained economic growth and integrated social development. The international community's objective is to reduce the volatility of international financial markets and to achieve more harmonious and equitable development.

26. Given the complexity of the global issues that affect development, such as financial crises, it is necessary to devise means whereby the United Nations can fulfil its responsibilities in seeking solutions to international economic and social problems, particularly in terms of harmonizing national efforts to deal with problems affecting development.

27. This process should involve all the competent forums of the United Nations system, particularly the specialized and regional entities, as well as other international organizations dealing with specific aspects of financing for development.

28. The United Nations should contribute to the formulation and implementation of systems to improve early warning, prevention and response capabilities for dealing with the emergence and spread of financial crises in a timely manner.

29. One important and urgent challenge for the United Nations is that of including, as part of its activities in the economic, social and financial fields, the in-depth consideration of issues such as financial crisis prevention and management, issues pertaining to financing for development, the rules of access to multilateral resources and the role of regional institutions, while respecting the areas in which national autonomy must be preserved. In this connection, the dialogue between the United Nations and the Bretton Woods institutions should be continued and intensified with a view to creating optimal conditions for ensuring that the new international financial architecture reflects the global interests of the international community.

30. At the same time, the United Nations should strengthen the promotion of integrated social development by placing greater emphasis on compliance with the commitments made at the World Summit for Social Development, designing international cooperation schemes

and carrying out more programmes and projects to address the consequences of financial crises. Financial reforms should focus on the objective of sustained growth as an effective means of combating poverty.

31. These proposals should contribute to the preparations for the high-level conference on financing for development to be held in 2001, which will provide an opportunity for the comprehensive and systematic consideration of this issue and of the impact of instability and financial crises on social development.

32. This conference will offer a valuable opportunity to take a systemic and integrated approach to the consideration of development from a financial standpoint, thereby contributing to the analysis and the mobilization of resources for the appropriate implementation of the outcomes of the conferences and summit meetings held by the United Nations in recent years.

33. To ensure that the Latin American and Caribbean region's contribution to the changes that will result from the conference represents the viewpoints of all the parties involved, it is important to hold, in advance, high-level regional meetings involving governmental and intergovernmental actors that deal with foreign affairs, finance, central banks, trade and social development.

34. Likewise, it is important that the United Nations should disseminate the results of this meeting to contribute to the analyses and consultations being conducted in the various forums and interested institutions. These results will serve to complement the deliberations held thus far on the subject and to promote better coordination of efforts and more exchanges of views and information, which are necessary for building consensus on a global scale.

United Nations A/54/385

General Assembly

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**Fifty-fourth session**
Agenda item 88
**United Nations Relief and Works Agency for Palestine Refugees in the Near East**

# University of Jerusalem "Al-Quds" for Palestine refugees

## Report of the Secretary-General

1. The present report is submitted in pursuance of General Assembly resolution 53/52 of 3 December 1998, the nineteenth resolution adopted since its first consideration of the subject, at its thirty-fifth session (resolution 35/13 B).

2. The Secretary-General has submitted 17 reports (the last one being A/53/551) on the steps he has taken in pursuance of those resolutions, including his efforts to prepare the functional feasibility study on establishing the proposed university that was first requested by the Assembly in its resolution 36/146 G of 16 December 1981. The position of the Government of Israel with regard to the establishment of the university is also set out in those reports.

3. As the Secretary-General has previously indicated (see A/41/457, para. 4), he believes that, in order to comply with the request addressed to him by the General Assembly, it would be necessary to complete the functional feasibility study initiated in pursuance of its previous resolutions. To that end, the Secretary-General again sought the assistance of the Rector of the United Nations University, who, at his request, made available a highly qualified expert, Mihaly Simai, to assist in the preparation of the study. The expert was to visit the area and to meet with the relevant Israeli officials, bearing in mind that Israel exercises effective authority in the area concerned.

4. In a note verbale dated 28 July 1999 addressed to the Permanent Representative of Israel to the United Nations, the Secretary-General, with reference to the request addressed to him by the General Assembly, requested that the Government of Israel facilitate the visit of the expert, which would take place at a mutually convenient date. Recalling the position taken by the Government of Israel concerning the proposed university, as well as the clarifications already given by the Secretariat to the questions raised by the Israeli authorities (see A/36/593, annex), the Secretary-General expressed the view that such questions could best be discussed on the occasion of the visit of the United Nations expert.

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5. On 26 August 1999, the Permanent Representative of Israel sent the following reply to the Secretary-General:

> "Israel has voted consistently against this resolution and its position remains unchanged. It is clear that the sponsors of this resolution seek to exploit the field of higher education for political purposes totally extraneous to genuine academic pursuits. Accordingly, the Government of Israel is of the opinion that the proposed visit of Dr. Mihaly Simai to Israel would serve no useful purpose."

6. In view of the position taken by the Government of Israel, it has not been possible to complete the functional feasibility study on the proposed university at Jerusalem as planned.

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**Fifty-fourth session**
Agenda item 116 (b)
**Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms**

# Elimination of all forms of religious intolerance

## Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report on the elimination of all forms of intolerance and of discrimination based on religion or belief prepared by Mr. Abdelfattah Amor, Special Rapporteur of the Commission on Human Rights, pursuant to General Assembly resolution 53/140 of 9 December 1998.

99-27290 (E) 211099 301099

# Interim report on the elimination of all forms of intolerance and of discrimination based on religion or belief prepared by the Special Rapporteur of the Commission on Human Rights

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# I. Introduction

1. At its forty-second session, the Commission on Human Rights decided, by resolution 1986/20 of 10 March 1986, to appoint for one year a special rapporteur to examine incidents and governmental actions in all parts of the world inconsistent with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and to recommend remedial measures.

2. The mandate of the Special Rapporteur has been regularly renewed, in particular by resolution 1998/18 adopted by the Commission on Human Rights at its fifty-fourth session. Since 1988, the Special Rapporteur has presented the following reports to the Commission on Human Rights: E/CN.4/1987/35, E/CN.4/1988/45 and Add.1, E/CN.4/1989/44, E/CN.4/1990/46, E/CN.4/1991/56, E/CN.4/1992/52, E/CN.4/1993/62 and Corr.1 and Add.1, E/CN.4/1994/79, E/CN.4/1995/91 and Add.1, E/CN.4/1996/95 and Add.1 and 2, E/CN.4/1997/91 and Add.1, E/CN.4/1998/6 and Add.1 and 2, and E/CN.4/1999/58 and Add.1 and 2. Since 1994, the Special Rapporteur has also been submitting interim reports to the General Assembly (A/50/440, A/51/542 and Add.1 and 2, A/52/477 and Add.1, and A/53/279). This interim report is submitted pursuant to General Assembly resolution 53/140 of 9 December 1998.

# II. Report on communications sent by the Special Rapporteur and replies received from States since the publication of the report submitted to the Commission on Human Rights at its fifty-fifth session

3. This report relates to communications sent since the publication of the report submitted to the Commission on Human Rights at its fifty-fifth session and prior to the closure of that session (8 January-30 April 1999), and to communications sent since that session (after 30 April 1999). The replies received by the Special Rapporteur are also reflected.

4. With regard to the first series of communications, the following States were contacted: Bangladesh, Bolivia, Bulgaria, China, Comoros, Democratic People's Republic of Korea, Eritrea, Greece, India, Indonesia, Iraq, Israel, Nepal, Pakistan, Peru, Republic of Korea, Russian Federation, Sri Lanka, Syrian Arab Republic, Tajikistan, Turkmenistan, Uganda, Uzbekistan and Yemen.

5. Of these 24 communications (including one urgent appeal to Iraq), sent to 24 States, for which the deadline for replying has expired, nine States have replied: Bulgaria, China, Eritrea, Greece, Iraq, Republic of Korea, Russian Federation, Syrian Arab Republic and Uzbekistan.

6. With regard to the second series of communications, 50 allegations (including one urgent appeal to the Islamic Republic of Iran) were sent to 41 States: Afghanistan, Azerbaijan, Bangladesh, Belarus, Brunei Darussalam, Bulgaria, Cape Verde, China (2), Comoros, Côte d'Ivoire, Cyprus, Democratic People's Republic of Korea, Djibouti, Dominican Republic, Finland, Gabon, Georgia (2), Greece, India (2), Islamic Republic of Iran, Israel (3), Kazakhstan, Kuwait, Malaysia, Maldives, Mauritania, Mozambique, Myanmar, Nepal, Niger, Pakistan (2), Republic of Moldova, Samoa, Saudi Arabia, Syrian Arab Republic, Turkmenistan, Ukraine (2), United Arab Emirates, Uzbekistan (2), Viet Nam and Yemen.

7. Of the 38 States for which the deadline for replying has expired, Azerbaijan, Djibouti, Finland, Georgia, the Islamic Republic of Iran and Kuwait have replied.

8. In total, 65 communications (including two urgent appeals) were sent to 49 States.

9. Since the deadline for replying has not yet expired for seven communications, addressed to China, Greece, India, Israel, Kazakhstan, Uzbekistan and Viet Nam, these allegations will be summarized in the next report to the Commission on Human Rights.

10. The Special Rapporteur has also noted in this report the replies received and the absence of replies to communications sent for the Commission's fifty-fourth and fifty-fifth sessions.

11. The Special Rapporteur wishes to point out that these communications do not cover all the incidents and governmental actions in the world that are incompatible with the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. The fact that only a few States are covered in this report does not mean that other States are problem-free. Moreover, the length of a communication and/or the existence of several communications for a single State do not indicate the seriousness of the intolerance and discrimination in question. Likewise, while each communication refers to a given type of intolerance, this does not necessarily mean that other types of intolerance or discrimination do not occur in the same State. The

communications concern cases of intolerance or discrimination, but it must be borne in mind that these cases may represent either completely isolated manifestations which are exceptional or manifestations that reveal an overall situation of intolerance and discrimination. Furthermore, the situations referred to in the communications may affect freedom of religion and belief or certain dimensions of those freedoms. Sometimes they affect the whole of society or certain communities or religious minorities. Also, the communications clearly do not cover all religions and beliefs and the frequency with which certain religions and beliefs, are referred to in the communications does not indicate their general situation in the world.

## A. First series of communications and replies

12. *Bangladesh.* It is alleged that, on her return to Bangladesh to be with her sick mother, there were renewed calls for the murder of the writer Taslima Nasreen by Muslim extremists, who accused her of blasphemy. The prosecution of the writer under article 295 of the Penal Code "for having deliberately and maliciously outraged the religious sentiments of a class of citizens" is said to have been resumed; likewise, an order for her arrest and the confiscation of her property is said to have been issued.

13. *Bolivia.* The right to conscientious objection on grounds of religious belief is reportedly not recognized in law and it seems that there is no provision for any alternative form of service.

14. *Bulgaria.* In December 1998, a Jehovah's Witness was allegedly imprisoned, in accordance with a judicial decision upheld by the Court of Cassation, because of his conscientious objection to military service. This sentence seems to be inconsistent with both the Constitution, which guarantees the right to perform alternative service, and a law on alternative service that was adopted in October 1998 and entered into force on 1 January 1999.

15. The Government of Bulgaria confirmed the sentences and the detention of the Jehovah's Witness in question, but stated that this person had been pardoned by the Vice-President of the Republic and released on 8 March 1999. The Special Rapporteur thanks the Government of Bulgaria for its prompt response and, while warmly welcoming the pardon, wishes to know whether this measure, which does not solve the problem of principle, was motivated by the apparent inconsistency of the detention with the Constitution and the new legislation on alternative service.

16. *China.* It is alleged that, in October and November 1998 and January 1999, in Henan province, the security services arrested members of Protestant congregations not recognized by the authorities. Since the reply by China could not be translated before the finalization of this document, it will be summarized in the next report of the Special Rapporteur.

17. *Comoros.* The right to conscientious objection on grounds of religious belief appears not to be recognized in law.

18. *Eritrea.* The right to conscientious objection on grounds of religious belief appears not to be recognized in law. The Government of Eritrea explained that, under its legislation, military service is compulsory for a period of 18 months, consisting of six months of military training and 12 months of civic activities. It stated that no exemption was provided, except in the case of persons who had fought in the national liberation war. The Special Rapporteur's comments on the Republic of Korea are also relevant with respect to Eritrea.

19. *Russian Federation.* It is reported that, since 1996, the Moscow Prosecutor of the Northern Administrative Circuit has brought charges on five occasions against the congregation of Jehovah's Witnesses in the capital. The first four cases were abandoned because of lack of evidence. In September 1998, new charges were brought under the 1997 Act on freedom of conscience and religious organizations in respect of the proselytizing activities of the Jehovah's Witnesses, which were deemed illegal on the grounds that they foster religious discord and are a threat to Russian family life. If this prosecution was successful, the registration of the Jehovah's Witnesses would be revoked and their congregation would be banned in Moscow. Since the reply by the Russian Federation could not be translated before the finalization of this document, it will be summarized in the next report of the Special Rapporteur.

20. *Greece.* It is alleged that the municipality of Galatsi, a number of its residents and the officially recognized Greek Orthodox Church are attempting to take possession of the Church of Saint Savas in Panorama Galatsiou region, which belongs to the Old Calendarist Orthodox Church, despite a judgement in the latter's favour. Furthermore, members of the Old Calendarist Orthodox Church are said to have been arrested and charged with disturbing a religious gathering of persons who were in fact using their church illegally.

21. The Government of Greece replied: "On examination of the case of the property of the Church of Saint Savas in the Panorama Galatsiou region, contested by the Orthodox Church and the Old Calendarists', the competent Greek

authorities have concluded that what seems like an act of religious extremism in the information received by the Special Rapporteur is in reality a civil law controversy, upon which the competent Courts of Justice have undertaken and, as acts liable to punishment have taken place meanwhile, the case is pending before justice".

22. *India.* Violence against Christians, notably in Gujarat, Uttar Pradesh, Bihar, Orissa, Punjab and Maharashtra states, is reportedly continuing in the form of attacks on places of worship, property, churchgoers and clergy. This situation remains unchanged despite the assurances of the country's highest authorities.

23. *Indonesia.* It is reported that, in December 1998 in Jakarta at the beginning of Ramadan, approximately one thousand Muslims attacked Catholic and Protestant places of worship as well as a Catholic school. It seems that these incidents were finally halted by the police and the army. In November 1998, sectarian clashes allegedly resulted in the deaths of 13 Christians and the destruction of churches and mosques. These events are said to have occurred in part because of religious extremism affecting the Muslim and Christian communities.

24. *Iraq.* The urgent appeal sent to Iraq concerned the assassination of Ayatollah Mohammad Sadeck al-Sadr and his two sons and the subsequent demonstrations by Shiites in the suburbs of Baghdad, and in Kerbala and Nassiriya. This appeal also drew attention to allegations of repression by the armed forces (25 persons assassinated and 250 injured in Baghdad).

25. The Government of Iraq replied that it was committed to guaranteeing the freedom of its various communities and religions and the security of their national and religious symbols, in accordance with the rights and guarantees of the Constitution and the national legislation. It added that the guaranteeing of the security of all Iraqi citizens was the responsibility of the Iraqi State and its people. It emphasized that the murder of Ayatollah Mohammad Sadeck al-Sadr was a great loss for Iraq since he had been a great imam and an authority on Islam, devoted to education, prayer, national unity and the fight against forces hostile to Iraq. In particular, he had called for a jihad against the imperialist forces that were oppressing the Iraqi people by means of an economic blockade and air strikes. It stated that those making accusations against Iraq without waiting for the results of the investigation under way were the same persons who had accused the Iraqi Government of imposing Ayatollah Mohammad Sadeck al-Sadr as a religious leader. The Government asked how its Government can be accused of the murder of this dignitary when he had condemned the allies of the United States of America and the United Kingdom of Great Britain and Northern Ireland, who, styling themselves the "Iraqi opposition", were seeking the financial support of the American Administration for the purpose of sowing discord in Iraq. The United States and its allies should be the subject of the accusations. The allegations of demonstrations and arrests were disputed. The Government stated that Arab and foreign news services that had visited the areas concerned had reported that the situation was calm and normal, and said that it would transmit the results of the investigation under way. The Special Rapporteur is awaiting with interest the outcome of this investigation.

26. *Israel.* Ultra-orthodox Jews are said to be creating a climate of intolerance in Israel. In November 1998, in Kiryat Malachi, an American couple engaged in humanitarian work with Ethiopian immigrants was allegedly attacked by young ultra-orthodox Jews who suspected them of proselytizing. In the town of Beersheba (Negev), one thousand ultra-orthodox Jews (*haredim*), acting on a rumour spread in the synagogues alleging that the Messianic Jews intended to baptize Jewish children, are reported to have laid siege to the place of worship rented by the Messianic Jews. The police apparently guarded the building in order to maintain order, but subsequently told the leaders of the congregation that they must protect the area themselves. A chief rabbi from Beersheba spoke on television and in the newspapers of his opposition to the messianic group and its activities. It would seem that this person is in fact the brother of a member of the Knesset who supported a draft law banning religious conversion (E/CN.4/1998/6). In Mea Shearim, ultra-orthodox Jews allegedly attacked the residence of three Swiss Christians, whom they accused of proselytizing. Despite the absence of any reply by Israel, the Special Rapporteur wishes to recall the responsibility of the State in the fight against intolerance and discrimination, in this instance in respect of freedom of religion.

27. *Nepal.* It is alleged that, in November 1998, in Rukum, the police executed two Christian leaders of the Taka Church, whom they suspected of belonging to the Maoist organization waging a civil war in remote areas of Nepal. It would appear that the Christian community is in fact subjected to pressure by Maoists hostile to their religious practices, by the police, who execute Christians suspected of being Maoists, and by Hindu militants of the Bharatiya Janata Party, who target Christians.

28. *Uganda.* The national legislation reportedly does not guarantee the right to conscientious objection on grounds of religious belief.

29. *Uzbekistan.* An official of the Seventh Day Adventists was reportedly arrested in November 1998 on the grounds that his congregation was not registered and that he had no pastoral qualifications. He is said to have been released after paying $1,000 and to have left the town where he was arrested. In the town of Navoi, the Seventh Day Adventists are reported to have built a church which the authorities are refusing to register.

30. In a detailed reply dealing with the case of arrest summarized above, the Government of Uzbekistan explained that the individual in question had violated the legislation on religious organizations by reason of the activities he engaged in without the Seventh Day Adventists being officially registered in the town of Karshi. It confirmed that he had been sentenced to a fine in accordance with the Code of administrative responsibility, and explained that he had left the town to return to his place of residence. It added that the Seventh Day Adventists were registered by the Justice Department in Navoi region on 13 January 1999. In that respect, the Government explained that any religious organization could be established on the initiative of at least 100 citizens aged 18 or over and permanently resident in the territory. For the coordination and supervision of religious activities, a central administrative body could be established by the Constituent Assembly of representatives of the religious organization registered, operating in at least eight territorial divisions of Uzbekistan. A religious organization acquired legal status and could carry on its activities only after being registered by the Ministry of Justice and its representatives in the province. The Special Rapporteur wishes to draw attention to the fact that regulation of the exercise of worship, while being useful and very often necessary, must not constitute an obstacle to freedom of religion.

31. *Pakistan.* In Karachi, four men were reportedly murdered by Shiites in January 1999 while at prayer in a mosque. The police are said to have arrested members of the Sipah-e-Sahaba extremist group, who reportedly denied any responsibility. In December 1998, a bomb is said to have exploded in the cathedral, injuring a worshipper. In addition, an Ahmadi was reportedly murdered by a member of an anti-Ahmadi organization.

32. *Peru.* Following an order of May 1998 amending the legislation on exemption from property tax for religious organizations recognized by the State, a number of Christian congregations, particularly Evangelist ones, reportedly ceased their activities because of the absence of financial resources needed to pay taxes. In Lima, some of these organizations are said to have filed a complaint against the municipal authorities on the grounds that the order did not apply to the Catholic church, which was contrary to the constitutional principle of equality before the law.

33. *Syrian Arab Republic.* The right to conscientious objection on grounds of religious belief is reportedly not recognized by law. The Government of the Syrian Arab Republic replied that there were no cases of conscientious objectives on grounds of religion and belief in its territory. The Special Rapporteur thanks the Government of the Syrian Arab Republic for its reply, and would like to know whether Syrian legislation guarantees conscientious objection.

34. *Republic of Korea.* The national legislation reportedly does not guarantee the right to conscientious objection on grounds of religious belief.

35. In its reply, the Government of the Republic of Korea emphasized the importance it attaches to freedom of religion and belief, while recalling its sovereign right and responsibility for defence of the territory and maintenance of public order in conformity, according to its representatives, with the provisions of article 29 of the Universal Declaration of Human Rights providing for limitations for purposes of public order and the general welfare. It explained that the unique security situation of the Korean peninsula made the maintenance of a system of compulsory and universal conscription inevitable. It added that the introduction of an alternative form of service would be difficult because public opinion was sensitive to equity in the performance of military service.

36. The Special Rapporteur, while understanding the concerns of the Government of the Republic of Korea, wishes to recall that the United Nations Commission on Human Rights, in several resolutions such as resolution 1998/77, recognized the right of everyone to have conscientious objections to military service as a legitimate exercise of the right to freedom of thought, conscience and religion as laid down in article 18 of the International Covenant on Civil and Political Rights and General Comment No. 22(48) of the Human Rights Committee. It also reminded States with a system of compulsory military service, where such a provision has not already been made, of its recommendation that they provide for conscientious objectors various forms of alternative service which are compatible with the reasons for conscientious objection, of non-combatant or civilian character, in the public interest and of not punitive nature. Moreover, it should be pointed out pursuant to article 4 of the International Covenant on Civil and Political Rights, freedom of belief cannot be subject to limitations, on the understanding that it is distinct from the freedom to manifest a belief, which can be subject to limitations as provided for by international law.

37. *Sri Lanka*. Two Seventh Day Adventists, including a pastor and pastor's son, were reportedly arrested in 1998 and are said to have been detained since then on the basis of apparently unjustified suspicion of involvement in terrorist activities. The Special Rapporteur would like to receive the views and comments of the Government of Sri Lanka as soon as possible.

38. *Tajikistan*. The national legislation reportedly does not guarantee the right to conscientious objection on grounds of religious belief.

39. *Turkmenistan*. The President of the Central Asian Conference of Seventh Day Adventists has reportedly had books written by him confiscated. This congregation is said not to have been registered by the authorities in the town of Ashgabat.

40. *Yemen*. The right to conscientious objection on grounds of religious belief is reportedly not recognized by law.

## B. Second series of communications and replies

41. *Afghanistan*. The Taliban continue to apply a system of discrimination against women based on their own interpretation of Islam. Women are subjected to total segregation within society, such as exclusion from any employment and from educational institutions. Their status as second class citizens is said to be reflected in the following prohibitions: they are not allowed to drive, they are kept separate from men in buses, they have to be accompanied by a close male relative whenever they leave the home and whenever they visit a doctor, doctors are not allowed to touch women patients, they are required to wear the *burqa*.

42. *Saudi Arabia*. The legislation, which is said to be based on religious norms, is reportedly not gender-based. Women are said to be discriminated against in the following ways: they are not allowed to drive a motor vehicle, they enter buses by an entrance separate from that for men and sit in a section different from that for men, they enjoy limited access to public facilities when men are present, they require the authorization of a close male relative for admission to hospital treatment and for travel abroad, they can study abroad only if they are accompanied by the spouse or an immediate male relative, when in public, they are required to observe the rules governing dress, in the shariah courts, testimony by a man is said to be equivalent to the testimony of two women, in divorce cases, women have to show legally specified grounds, something which is reportedly not required of men.

43. Saudi Arabia asked the Special Rapporteur to indicate "(1) the basis on which this allegation has been raised within the mandate of the Special Rapporteur on the question of religious intolerance, (2) what is the connection between the Commission on Human Rights resolution 1998/8 and the status of women in Saudi Arabia and (3) what is the relevant link which the Office of the High Commissioner for Human Rights deems appropriate between the status of women in Saudi Arabia and the term 'religious intolerance'". The Special Rapporteur informed the Government of Saudi Arabia that the Commission on Human Rights, in its resolution 1999/39 entitled "Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion and Belief", urged States to take all necessary action to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, with particular regard to religious minorities, and also including practices which violate the human rights of women and discriminate against women. It also stressed the need for the Special Rapporteur on religious intolerance to apply a gender perspective, *inter alia* through the identification of gender-specific abuses, in the reporting process, including in information collection and in recommendations. In his last report to the Commission on Human Rights (E/CN.4/1999/58), the Special Rapporteur analysed the communications from the standpoint of the principles, rights and freedoms enunciated in the Declaration. This analysis included seven categories of violations, in particular violations against women. Non-discrimination for reasons of, *inter alia*, sex is also covered by the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. These provisions were also included in resolution 1998/18 relating to the mandate of the Special Rapporteur. Communications sent by the Special Rapporteur relating to the situation of women that are reportedly based on religious norms cover any country and any religion, and not in particular the Kingdom of Saudi Arabia. The Special Rapporteur also asked the Government of Saudi Arabia whether the allegations were correct and to give its views and observations concerning these allegations, in particular whether the alleged situation of women is based on religious norms.

44. *Azerbaijan*. The national legislation reportedly does not guarantee the right to conscientious objection on grounds of religious belief.

45. The Government of Azerbaijan replied that the State Military Commissioner had no case on record of citizens

objecting to military service on religious grounds, and that the Constitution and the legislation provided for alternative service for conscientious objectors.

46. *Bangladesh*. Despite legislation that guarantees freedom of religion and its manifestations, in fact foreign missionaries reportedly have to limit their religious activities, particularly those addressed to Muslims. Where women are concerned, the Muslim Family Ordinance reportedly places them in a disadvantageous position where divorce is concerned. In addition, despite the existence of legislation protecting women against arbitrary action where divorce is concerned, these provisions reportedly do not cover unregistered traditional marriages in rural areas. In December 1998, a decision by the Supreme Court overruling a verdict which recognized the right of a divorced Muslim wife to alimony from her former husband until she remarried or died is said to have resulted in the restoration of a law limiting the payment of alimony to only three months.

47. *Belarus*. A 1995 directive by the Cabinet of Ministers reportedly restricts the religious activities of foreign missionaries exclusively to institutions which invited them. Unregistered religious organizations are said not to be authorized to invite foreign religious personnel. Moreover, local authorities reportedly refused requests by Seventh Day Adventists to rent public buildings for religious purposes, which it is said poses a problem in that in many places no private place of worship is said to be available to them.

48. *Brunei Darussalam*. By reason of legislation apparently based on religious norms, women are reportedly victims of discrimination in many areas, including divorce, custody of children and transmission of citizenship. The Nationality Act is said to provide for transmission of citizenship solely by the father. Consequently, a Brunei Darussalam woman married to a foreigner would be unable to transmit her citizenship to her children even if they were born in Brunei Darussalam.

49. *Bulgaria*. Since 1998, the Ministry of Education has reportedly introduced an optional course on religions into the secondary school curriculum. It is alleged that this course, designed to reflect all religions, in fact pays more attention in the textbooks to the Bulgarian Orthodox Church. The Muslim community is said to have complained of the inadequate treatment accorded to Islam in the course and its textbooks.

50. *Cape Verde*. In July 1998, three Seventh Day Adventists were reportedly arrested after being accused by the police of setting fire to and stealing from Catholic churches. Despite the apparent absence of proof, two of the accused are said to be still in detention, and the third to have been released pending a trial that has been postponed several times.

51. *China*. In January 1999, the Tibetan Communist Party Propaganda in Lhasa reportedly launched a three-year campaign to promote atheism in order to undermine the influence of Buddhism and of the Dalai Lama. In Beijing in April 1999, more than 10,000 members of the Falun Gong movement are said to have demonstrated in protest against the arrest of a number of their fellow members who opposed the ban on their leader's writings. The activities of Falun Gong are also reportedly banned in a number of towns in the north-east.

52. *Cyprus*. According to various sources, the policy of intolerance and religious discrimination in the territories under the control of the Turkish army is continuing. The church of Panayia Chriseleousa in Katopia village is said to have been converted into a mosque, while the oldest church in the village has reportedly been stripped of its contents. The church of Saint Afxentios in Komi Kepir village has also reportedly been subjected to acts of vandalism, *inter alia* theft of the frescoes.

53. *Comoros*. The religious activities of Christians are said to be restricted when they are addressed to Muslims.

54. *Côte d'Ivoire*. Muslims are reportedly discriminated against in the allocation of community radio stations. Whereas the Catholic community is said to have received official approval for four radio stations, the Muslims have allegedly been deprived of them in that the authorities made it a condition that all the Muslim associations should agree to share a single radio frequency. An agreement of this kind within the Muslim community, which has a wealth of diverse associations but cannot be likened to a single, hierarchized church represented by a single official, is reportedly not possible. This situation, it is argued, prevents the establishment of Muslim radio stations. In November 1998, 60 Seventh Day Adventists were reportedly driven from their village by members of a tribe of the Harris faith.

55. *Djibouti*. The religious activities of non-Christians are reportedly confined to the private sphere by reason of the ban on public preaching, particularly among Muslims. The legislation guaranteeing the same rights to women and to men is said to be affected by religious traditions attributed to Islam. Authorization by a man is reportedly necessary for a woman wishing to travel abroad.

56. The Government of Djibouti rejected these allegations, stating that it is known as one of the most, if not the most, tolerant of all the Islamic States. It emphasized that a number of important sites in the capital are non-Muslim religious

buildings in which believers can practise their faith freely. Djibouti, it said, is characterized by the practice of tolerance and religious freedom.

57. *United Arab Emirates.* Christians are reportedly unable to undertake religious activities among Muslims.

58. *Finland.* The duration of the alternative service for conscientious objectors reportedly gives the appearance of being punitive. The Government of Finland submitted a very detailed reply recalling *inter alia* that conscientious objection was legally recognized in 1931 and that requests for conscientious objector status are approved without any inquiry. As to the amendments to the Military Service Act (in 1998) and the Civilian Service Act (in 1999) and following the reductions in the duration of certain forms of military service, the Government explained that Parliament had decided to maintain the duration of non-military service. The duration of that civilian service had been discussed in Finland. "Military service has been estimated to be more straining both physically and psychologically, the actual daily/weekly time of duty is longer, there are fewer financial benefits and freedom of movement and other aspects of personal freedom are more restricted. Furthermore, persons who complete military service are under obligation to do refresher training later. There is no equivalent to this for persons performing civilian service. Due to the different nature of the types of service, comparing is difficult. Finland will follow closely the functioning of the current system." The Finnish Government also took the initiative of addressing its position with regard to the application of the 1981 Declaration in the area of education. The Special Rapporteur wishes to thank the Government for its detailed, closely argued and balanced response and for the extremely useful information relating to education.

59. *Gabon.* Notwithstanding a satisfactory situation in the area of freedom of religion and belief, the community of Jehovah's Witnesses is reportedly subject to a government ban which, though not applied de facto, is formally maintained, weakening the community in the long term. Where women are concerned, some legislation, influenced by traditional beliefs, is said to be discriminatory, in particular the requirement for a woman wishing to travel abroad to obtain her husband's permission.

60. *Georgia.* The 1997 Alternative Service Act was apparently never applied or accompanied by the mechanisms required for its implementation. The duration of the service established by law was punitive in character. It was reported that the procedure for the restitution of religious property confiscated during the Soviet era continued to be fraught with serious difficulties. The Armenian and Catholic churches were isolated. It was reported that a famous Armenian church in Tbilisi is still closed. Despite a court decision calling for the restitution of a synagogue to the Jewish community, the building was allegedly still being used as a theatre by the occupants. Under pressure from the Georgian Orthodox Church, the authorities were making it difficult to secure a permit to build places of worship for the Protestant and Armenian orthodox communities.

61. The Government of Georgia replied that its Constitution and Penal Code guaranteed freedom of religion and belief and the Government had taken positive measures in the area of human rights. It explained, for instance, that no cases of torture or arbitrary arrest had been reported and that the authorities were doing their best to guarantee the right to manifest one's religion and belief (meetings and places of worship). It pointed out that the educational system provided an understanding of tolerance and respect for freedom of religion and belief, specifically through the study of human rights, debates and symposia. It acknowledged that there had been incidents in some parts of the country but they had been cleared up. With regard to the restitution of a synagogue, the Government explained that the occupants were demanding to be paid for their repair work, alleging that it was a study centre, that the building had been rented to a theatre company and not to the State and that the two existing Tbilisi synagogues were sufficient to accommodate the religious rites of the Jewish community. It stated, with regard to the Catholic and Armenian churches, that they had not claimed restitution of their property in a court of law. It pointed out that they had no claims against the Orthodox Church and that there was nothing to impede fulfilment of their request to build new churches provided it was in keeping with the law. Finally, it mentioned that a place of worship had been allocated to the Catholic Church in Tbilisi.

62. *India.* The Christian community was reportedly still feeling uneasy. Their uneasiness was not the result of isolated incidents, but of a resurgence of Hindu militancy and the Hindu policy with respect to minorities. In order to broaden their electoral base and thus their impact on the population, militant Hindu groups were deliberately attacking the Christian minority and its institutions in the education, health and social sectors because of their influence on the Indians, especially those who were the most disadvantaged or living in remote areas of the country. Presumably those Hindu groups were using illegal methods and were accusing the Christians of trying to convert India to their beliefs. It was alleged further that they were conducting a hate campaign against Christians through the media, pamphlets and posters. The campaign was allegedly being financed by Hindu organizations abroad. Apparently,

the authorities had not taken any definite action to remedy the situation. The chief perpetrators of the murder of Pastor Graham Staines and the rape of the nuns (see report E/CN.4/1999/58) reportedly had not been arrested and, shielded by that situation of impunity, there had been continuing attacks on Christians, such as the rape of two girls, the abduction of another and the desecration of a place of worship. The women and girls of the community seemed to have become the chief targets of the militant Hindus. Women were reportedly especially affected by discriminatory acts based on religion or religious traditions. The "personal status" laws classified women as inferior. The "status laws" that applied to Muslims apparently entitled men to unilateral divorce if they so desired, but not women. The "status laws" that applied to Christians entitled men to seek divorce on grounds of adultery whereas women had to show proof of special abuse and claim redress under certain categories of adultery only. Among Hindu women, although *sati* and the dowry were prohibited under customary law, those traditions were apparently not totally eradicated in some rural areas.

63. *Iran (Islamic Republic of)*. There was an urgent appeal about the arrest of 13 members of the Jewish community, including rabbis and religious teachers, in the cities of Shiraz and Ispahan. They were reportedly accused of spying for Israel and the United States, whereas the real reason they were arrested was that they were Jewish.

64. The Government of the Islamic Republic of Iran replied that the suspects arrested for spying included both Christians and Muslims, that the investigation and the arrest had taken place without regard for their religious beliefs and were instead a matter of safeguarding national security. A communiqué from the Jewish community was also transmitted stating that like every other religious minority, that community was well treated by the Islamic Republic of Iran and enjoyed the constitutional rights of citizenship and that the arrests and charges against certain Iranian Jews had nothing to do with their religion. Foreign press releases were also transmitted.

65. *Israel*. The Israeli Government and the military administrations were said to be pursuing a policy aimed at forcing the Christian communities out of Jerusalem. The Palestinian Christians of East Jerusalem were allegedly being stripped of their right of residence by having their identity cards confiscated and very few drivers' licences issued to them, the purpose being to raise the prices of housing and encouraging the building of illegal housing which could then be demolished. All the Christian communities of Jerusalem would lose members as a result of the policies and practices described above. Women would sometimes suffer discrimination in matters of divorce. Rabbinical courts deliberately gave preference to men, for example, by allowing a husband to remarry notwithstanding his wife's dissent or by not penalizing a husband who refused to consent to a divorce despite the sound and well-founded reasons given by the wife. Similarly, some Islamic courts reportedly denied any request for divorce from a wife but would grant it to any man notwithstanding his wife's dissent.

66. *Kuwait*. Despite some progress in advancing women's rights, women were said to be adversely affected by certain laws based on religious criteria. It was claimed that they suffered discrimination in the following respects: the consent of the husband was mandatory if the wife sought to obtain a passport; marriage between Muslim women and non-Muslim men was prohibited; and in the Islamic courts, the testimony of one man was equivalent to that of two women. Since Kuwait's reply could not be translated before this document was issued, it will be summarized in the next report of the Special Rapporteur.

67. *Malaysia*. Christians were allegedly subject to restrictions on all religious activities compared with Muslims. Despite progress in the legislation governing property and divorce, non-Muslim women reportedly suffered discrimination under the "personal status" laws.

68. *Maldives*. Protestants are reportedly forbidden to practise their religion in public because the conversion of Muslims to another religion is allegedly prohibited. The conversion of Muslims is said to be punished by loss of citizenship.

69. *Mauritania*. Protestants are said to be subjected to restrictions with regard to all religious activities concerning Muslims.

70. *Mozambique*. Despite the progress made by the Government, the restitution of property confiscated from the Catholic Church and the Muslim community in 1975 following the attainment of independence has not been completed.

71. *Myanmar*. The authorities are reportedly pursuing their policy of intolerance and discrimination against minorities: Muslims in the states of Arakan and Karen and Christians in the states of Chin and Karen. In January 1999, the activities undertaken by the Christian community of Chin to commemorate the centenary of Christianity were allegedly opposed by the military by various means, such as prohibiting the erection of a cross on Vuichip mountain, arrests of clergy and the refusal to grant visas to foreign guests.

72. *Niger*. The legal status of women is said to be unfavourable. A draft family code aimed at eradicating all discrimination with regard to the ownership of property and the custody of children in the event of divorce, as well as the practice of repudiation, was reportedly blocked by the hostility of extremist Muslim organizations. Women supporting this draft have allegedly been threatened by extremists invoking Islam.

73. *Uzbekistan*. Several Jehovah's Witnesses are said to have been arrested and fined or even imprisoned for religious activities which were illegal because their congregations had not been registered.

74. *Pakistan*. Muslim extremists are reportedly still using the blasphemy acts against the Ahmadi community. These extremists are said to have threatened the police in order to make them register their complaints about blasphemy. In Karachi, a Muslim woman who converted to Christianity was allegedly harassed by Muslim clerics and other Muslims. The woman's children are said to have been expelled from their schools because of her conversion. The police were informed of these developments but allegedly took no action.

75. The curriculum of secondary schools apparently includes mandatory Islamic instruction for Muslim students, who must take exams on the subject. Reportedly, students from non-Muslim communities are denied this opportunity with regard to their own religions. Students in non-Muslim private schools can receive religious instruction, but this is not officially recognized at the national level.

76. *Syrian Arab Republic*. The Seventh Day Adventists are said to be requesting the restitution of their religious property confiscated in 1969. They would reportedly like to be able to resume their activities in the Syrian Arab Republic.

77. *Republic of Moldova*. The legislation reportedly makes no provision for alternative service for conscientious objectors, who can allegedly be imprisoned. The authorities apparently refuse to register the Jehovah's Witnesses as a recognized religion, mainly because they object to military service. The Baptist Church, which has allegedly met with a similar refusal, is said to be forbidden to distribute its literature and to organize public meetings. The legislation apparently prohibits forced proselytism but is said to contain vague definitions. Reportedly, the local authorities, under pressure from the Orthodox Church, have refused to allow the Seventh Day Adventists to rent public buildings for religious activities.

78. The Government of the Republic of Moldova states that its Constitution guarantees freedom of conscience and worship according to the law. A law on alternative service was adopted in July 1991. It also states that the Jehovah's Witnesses and the Union of Baptist Churches were registered on 27 July 1994 and 2 May 1995 respectively.

79. *Dominican Republic*. Members of the national police must allegedly attend Catholic mass. The Catholic Church is said to be given preferential treatment by the Government, especially with regard to the granting of public funds for church expenditures and tax exemptions on imported goods.

80. *Samoa*. Despite the constitutional provisions guaranteeing freedom of religion and worship, village councils in fact sometimes engage in discriminatory behaviour, including the expulsion of people not sharing the belief prevailing in the village and the destruction of their property.

81. *Turkmenistan*. The legislation on freedom of religion and religious organizations allegedly sometimes creates serious difficulties for minorities in the areas of religion and belief. With regard to the registration procedure, the criterion of 500 members (500 citizens who are at least 18 years of age) is apparently applied locally and not at the national level. Consequently, every minority must reportedly have at least 500 members in each town where it wished to carry out its activities. Because they are not registered, the Jehovah's Witnesses are allegedly fined for holding private meetings. A Jehovah's Witness was reportedly sentenced to prison for expressing his conscientious objection to military service. Despite the legislation forbidding discrimination against women, the latter are apparently still affected by religious traditions, especially with regard to marriage. The religious authorities are said to counsel their faithful in ways detrimental to women.

82. *Ukraine*. The duration of alternative service for conscientious objectors is apparently punitive in character. Moreover, it is said that only members of officially registered religious communities whose doctrines prohibit military service can perform alternative service. Christian communities which are not indigenous to Ukraine reportedly encounter difficulties. The legislation on freedom of conscience and religion apparently states that the religious activities of foreigners must be confined strictly within the framework of the host organizations and must be approved by the authorities which registered the congregations concerned. The procedures for the registration of religious organizations originating outside Ukraine were said to be delayed by the local and regional authorities, which allegedly impedes the acquisition of property. The Seventh

Day Adventists reportedly encounter difficulties in educational institutions in the case of examinations scheduled for the sabbath. The same problem apparently arises in the workplace.

83. *Yemen*. Christian communities reportedly cannot engage in religious activities vis-à-vis Muslims. The correspondence of the clergy is apparently sometimes monitored by the authorities in order to prevent any proselytism. Women are allegedly affected by certain laws, which seem to be based on religious rules: in particular, a woman wishing to obtain a passport and travel abroad is said to need the permission of her father or husband.

## C. Late replies/failure to reply to communications sent for the fifty-fifth session of the Commission on Human Rights

84. *Germany* (reply to the communication contained in document E/CN.4/1999/58 (para. 29)). The authorities confirmed that the tennis player Arnaud Boetsch had lost a contract with a private tennis club which had come under pressure from its main sponsors because of his membership in the Church of Scientology. They added: "If Boetsch's contract ... were subject to German labor law (dependent working relationship), he could have challenged the club's decision to end his contract at court. It is not known whether this was the case. In any case, such a step was not taken by A. Boetsch who, in his later correspondence with the tennis club, was represented by a lawyer."The authorities were unable to obtain any information about the Spanish musician Enrique Ugarte. With regard to the Berlin police director, the authorities confirmed that an investigation had been opened to determine whether he was a member of the Church of Scientology; in the meantime, he had not been suspended from work but had in fact been assigned to non-sensitive special duties. The inquiry having shown that he was not a member of the Church of Scientology, he had been reinstated in his previous field of work in July 1998 and had received a promotion.

85. *Bulgaria* (ibid., para. 46) provided a detailed reply concerning the cases and situations mentioned by the Special Rapporteur. The authorities confirmed that a workshop on Islam organized by citizens of Saudi Arabia in violation of the law had been discontinued at the express request of the regional mufti. According to the law on religious denominations, religious manifestations may be organized only by, or with the consent of, officially registered denominations. In this case, the office of the chief mufti had not been informed that the workshop was to be held. Moreover, the Saudi Arabian clerics had entered the country with tourist visas, which did not authorize them to carry out religious activities.

86. The expulsion of an Austrian Jehovah's Witness following an earlier sanction under the Law on Foreigners Residing in the Republic of Bulgaria was confirmed. With regard to the case of two Bessarabian Jehovah's Witnesses, it was explained that an order banning them from entering the country had been issued because their residence permits had expired and not because of their beliefs. During their appeal, the couple had been granted Bulgarian nationality and the order banning them from the country had thus been annulled. The authorities stated that the Directorate on Religious Denominations and the Chief Prosecutor's Office had not received any information concerning attacks on the Bulgarian Church of God. The Directorate had nevertheless contacted the High Priest of that church, who according to the authorities had described the incidents as insignificant. The confiscation of the religious building of the Emmanuel Bible Centre was confirmed. This case, which is linked to violations of the Law on Territorial and Urban Development, is being prosecuted in the courts. Concerning the programmes hostile to the Jehovah's Witnesses, broadcast by a local television station, the authorities stated that the programmes, which contained accusations concerning the kidnapping of children and incitation to suicide, resulted from a private investigation conducted by a journalist and that the local leaders of the Jehovah's Witnesses community had not complained about them. Nevertheless, it was stated that in order to prevent a possible negative campaign in the local media, the authorities had organized a workshop on freedom of religion and belief. In the framework of that workshop the head of the Directorate had held a meeting with the representatives of the local private television network for the purpose of putting an end to the broadcasting of such programmes. It was confirmed that demonstrations against Jehovah's Witnesses had taken place in Plovdiv. It was explained that the demonstrations had been organized by the Social Committee for Resistance against the Sects, formed by parents concerned about cases of child abuse committed by sects in other countries. It was emphasized that the demonstrations did not actually constitute a case of religious intolerance. Lastly, the authorities acknowledged that Bulgaria's human rights record, like that of other countries, was not perfect and that incidents could sometimes occur at the local level. However, it could not be said that a climate of intolerance vis-à-vis minorities prevailed in the media or in society as a whole. During the current period of transition, the Government was taking

concerted practical measures to improve national legislation and practice aimed at strengthening the guarantees concerning freedom of religion and belief. A law on alternative service for conscientious objectors had been adopted, human rights had been included in the curricula of educational institutions and a campaign had been conducted to raise public awareness with regard to those subjects.

87. *China* (ibid., para. 47) stated, with regard to the case of Yulo Dawa Tsering, that after the latter had been released on parole he had worked in the mail service at the Hotel Hada in Lhasa. He had, moreover, been denied access to the Gandan Monastery and the University of Lhasa. The case was said to fall within the jurisdiction of the internal administrations of the Monastery and the University, with which the Government was not supposed to interfere. It was emphasized that Yulo Dawa Tsering enjoyed good living conditions, benefited from all the civil rights provided by the Constitution, and was not subjected to any repressive measures by the public security services.

88. *Egypt* (ibid, para. 50). In a detailed reply, Egypt described its cooperation with the United Nations organs involved in efforts to combat terrorism in all its forms and manifestations, which is a global phenomenon jeopardizing political stability, economic development, personal development and the fundamental rights of persons. The reply recounted Egypt's efforts, consisting not only of action in the areas of the judiciary and of security but also of measures to educate and sensitize society to the principles of human rights. Mention was made of the fact that Egypt had been awarded the UNESCO Prize for Children's and Young People's Literature in the Service of Tolerance. It was explained that guidelines had been laid down by the Ministry of Public Worship to ensure that sermons reflected the principles of religious tolerance and that places of worship resumed their traditional role of places for the teaching of morality, good example and the principles of solidarity, mercy and fraternity, with the goal of positive interaction with society. In addition, several ministries were responsible for the modernization of the centres providing refresher courses, sensitization and training, in order to prepare the integration of adolescents in society and to ensure that they do not become involved in destructive situations. Lastly, it was explained that combating terrorism required a constant effort to improve the quality of life, to develop employment opportunities and to eliminate the phenomenon of economic, political and cultural marginalization.

89. *India* (ibid., para. 61). India provided a very detailed reply on incidents of violence against the Christian minority. Reference was made to Indian secularism as the foundation of the Constitution and political system, to religious, ethnic and linguistic pluralism, to the constitutional guarantees of freedom of religion and minority rights and to the existence of a National Commission on Minorities. Information was then given on incidents affecting Christians. The following cases were summarized by the Special Rapporteur. In the case of Graham Staines, it was stated that 50 suspects had been arrested and that others were being sought, that an investigation was under way and that the incident had been condemned by the President and the Prime Minister. It was recalled that, following a ministerial visit to the scene, a detailed report had been transmitted to the Government and a commission of inquiry had been appointed which was to report within a period of two months. The National Human Rights Commission was also following the case. Concerning the case of the nuns who had been raped, it was stated that Christian and Hindu suspects had been arrested and that others were being sought, and that the case concerned a criminal action by inebriated persons rather than a communal crime. Concerning the attacks against members of the Assembly of the Church of Believers during a prayer session, it was explained that they had been perpetrated by anti-social elements alleging that the organization was engaged in religious conversion. It was added that conciliation efforts had been initiated immediately, that efforts were being made to bring the culprits to justice and that the religious meetings had been able to resume. Concerning incidents between Christians and Hindus in the state of Gujarat, it was reported that these incidents had followed stone-throwing by young Christians reacting to provocative slogans chanted by Hindus participating in a rally. The authorities had made arrests and deployed security officers, and Peace Committees comprising members of all communities had been set up. Compensation had been paid for damaged property. Lastly, the Central Government has sent a mission to investigate on site.

90. *Iran (Islamic Republic of)*. Mr. Jamal Hajipour and Mansour Mihrabi were arrested on charges of spying for foreign countries and acting against national security. In conformity with due process of law, they were tried by a competent court in Birjand. The court found them guilty of charges and in accordance with articles 498, 499, 508 and 510 of the penal code sentenced them to two years' imprisonment. The verdict was confirmed by branch 8 of the Khorassan court of appeal. Later, after serving half of their term, they requested clemency and conditional release which was approved by the court of appeal of Khorassan. Consequently, Mr. Jamal Hajipur was released on 23 August 1998 and Mr. Mansur Mihrabi was released on 24 August 1998.

91. Mr. Daryoush Faez was attained on charges of active participation in an illegal institution. He was later released to parole in February 1999. Allegation of confiscation of his properties is categorically unfounded. The lawsuits against Messrs. Soheil Golkar, Enayat Mazlomi and Rezvan Ashraf were referred to the office of the Prosecutor and resulted in "writ of stay". There are no legal records for Messrs. Riaz Eighanian, Kamran Mortezaei, Hootan Kasivi, Foad Sanaei, Rezvan Tavakoli, Rabi (Zabih) Fakhr Toosi, Misaq Laqaei, Khairollah Bakhshi, Aref Aqdasi (Aqdami), Naeim Khazeei, Mafkhari and Mrs. Faranak Eiqani.

92. Messrs. Abbas Koohbour, Peyman Ghadami, Ghodratollah Rafiei, Arash Kousary and Kambiz Moradi were detained on charges of conducting illegal activities on 29 September 1998 in Kermanshah Province and were subsequently released in less than 24 hours.

93. *Malaysia* (ibid., para. 72). Malaysia stated that eight persons had been detained not for having professed Shiism as the faith of their choice but because of their activities to spread Shiism, described by Malaysia as "a sect of Islam that is deviant to the mainstream of Islam in Malaysia". It was emphasized that these activities undermined the religious harmony in Malaysia and could have led to animosity among the Malaysian Muslims professing the Sunni faith. Concerning the conversion of a Muslim woman to Christianity, it was said that no threats had been made against her or her family and that the family had not lodged any complaint.

94. *Sudan* (ibid., para. 96). The authorities stated that the Khartoum Catholic Club had been closed on purely technical grounds connected with the city development project. It was added that the authorities were ready to allocate new locations for such establishments.

95. The Special Rapporteur has still not received replies to the communications sent in connection with the report to the fifty-fifth session of the Commission on Human Rights from the following 20 States: Albania, Angola, Cyprus, Democratic People's Republic of Korea, Georgia, Ghana, India (communication concerning women), Iraq, Kazakhstan, Latvia, Mali, Mauritania, Pakistan, Republic of Moldova, Russian Federation, Spain, Sudan (communication concerning the disappearance of a convert), Turkmenistan, Ukraine and Yemen.

### D. Late reply/absence of reply to the communications transmitted for the fifty-fourth session of the Commission on Human Rights

96. *Mozambique* (see E/CN.4/1998/6). Mozambique explained that a dispute had arisen concerning the organization Arco Iris Ministries, which had been organizing religious activities during class hours. Following a procedure for settlement of this matter by the authorities and the head of the centre, Arco Iris Ministries had been informed that non-compulsory religious activities could take place during non-teaching time.

97. The analysis of the communications concerning the 1981 Declaration covers the violations identified in earlier reports — violations of the principles of non-discrimination and tolerance in the areas of religion and belief, of freedom of thought, conscience and religion and belief, of freedom to express one's religion or belief, of freedom to dispose of religious property, of the right to life, physical integrity and health, and women's rights. The Special Rapporteur believes that it would even be appropriate to distinguish between threats to minorities in the area of religion and of belief. Because of the page limit for reports, the Special Rapporteur decided to make a detailed analysis within the framework of his conclusions.

## III. Follow-up of the Special Rapporteur's initiatives concerning the identification of legislation and the preparation of studies on the subject of tolerance and non-discrimination based on religion and belief and the creation of a culture of tolerance

### A. Legislation and studies

98. In the area of legislation, as stated in his latest report submitted to the Commission on Human Rights (E/CN.4/1999/58), the Special Rapporteur wishes to compile a compendium of national enactments relating to freedom of religion and belief. Such a collection, regularly updated and available to all in a data bank at an Internet site, would be useful, on the one hand, to intergovernmental organizations (such as UNESCO and OSCE), States and

non-governmental organizations engaged in activities with a direct or indirect link to freedom of religion or belief and, on the other hand and in particular, to the United Nations human rights bodies (Commission on Human Rights, Subcommission for the Promotion and Protection of Human Rights, treaty bodies such as the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child, the Committee on the Elimination of Discrimination against Women, the Committee on the Elimination of Racial Discrimination) and the special procedures, such as the mandate of the Special Rapporteur on Religious Intolerance relating to his activities to examine allegations, prepare *in situ* visits and their follow-up, research, studies and advice.

99. To date a total of 49 States have replied to the Special Rapporteur's requests to provide the text of the constitutions in force or any other text equivalent to a constitution, as well as the text of legislation and regulations concerning religious freedom and public worship: Algeria, Armenia, Azerbaijan, Bangladesh, Bolivia, Cambodia, Cape Verde, Chile, Cuba, Cyprus, Czech Republic, Denmark, Djibouti, Dominican Republic, Ecuador, Estonia, Ethiopia, Finland, former Yugoslav Republic of Macedonia, France, Indonesia, Israel, Italy, Japan, Jordan, Kuwait, Malta, Mauritius, Namibia, Pakistan, Poland, Portugal, Qatar, Republic of Korea, San Marino, Saudi Arabia, Seychelles, Slovakia, Spain, Sudan, Sweden, Switzerland, Syrian Arab Republic, Turkey, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela, Viet Nam and Yugoslavia. It would be highly desirable for all States to cooperate not only by sending the requested texts but also by updating the documents already transmitted.

100. As far as studies are concerned, the Special Rapporteur reiterates his recommendation that research should be conducted, within the framework of his mandate, to improve understanding of situations and complex and sensitive phenomena, on the following topics: (a) status of women with regard to religion and human rights; (b) proselytism, freedom of religion and poverty; and (c) sects, new religious movements and communities of religion and belief and human rights.

## B. Culture of tolerance

101. As explained in earlier reports, as regards discrimination and intolerance based on religion or belief, and in fact as regards all violations of human rights, prevention is the top priority and urgent need. Intervention, often *ex post facto*, in cases and situations constituting violations, cannot continue without attention to the underlying causes and attempts to avert them. This concern was shared by the Commission on Human Rights which, in its resolution 1994/18, encouraged the Special Rapporteur on religious intolerance to examine the contribution that education can make to the more effective promotion of religious tolerance. This interest was reiterated each year by the General Assembly. This year, in its resolution 1999/39 on the mandate of the Special Rapporteur, the Commission encouraged States to promote and encourage — in particular through education — understanding, tolerance and respect in areas relating to freedom of religion or belief. In its resolution 1999/82 entitled "Defamation of religions", addressed in particular to the Special Rapporteur on religious intolerance, the Commission stressed "the importance of creating conditions to foster greater harmony and tolerance within and among societies and the importance of education in ensuring tolerance of and respect for religion and belief".

102. Believing that school is an essential factor in the transmission of values geared to human rights and therefore in the emergence of a culture of tolerance and non-discrimination as regards religion or belief, the Special Rapporteur initiated an inquiry in 1994, through a questionnaire addressed to States, on the problems relating to freedom of religion and belief seen through curricula and textbooks at institutions of primary or basic and secondary education. Seventy-seven States replied to this questionnaire and this should make it possible to formulate an international education strategy to combat all forms of intolerance and discrimination based on religion and belief. Because of the lack of resources allocated to this mandate, the analysis of the replies was delayed and has not been completed. For this reason, the Special Rapporteur this year formulated a plan to finalize this activity by November 2001, the anniversary of the adoption of the Declaration on the Elimination of All Forms of Intolerance and Discrimination based on Religion or Belief. Initially, this plan provides for completion of the study of the replies to the above-mentioned questionnaire and for the formulation of a "preliminary set of conclusions and recommendations". In a second phase, an international consultative conference would be prepared and held in November 2001 on the content of curricula and textbooks at institutions of primary or basic and secondary education relating to freedom of religion and belief. This conference will examine the results of the questionnaire and will propose an international education strategy to combat all forms of intolerance and discrimination based on religion or belief, by formulating a joint basic programme of tolerance and non-discrimination which can be transmitted to the relevant United Nations organs in the form of a

declaration. The finalization of the plan and its implementation will necessarily require the cooperation of all the intergovernmental organizations, human rights bodies in the United Nations system and nongovernmental organizations.

# IV. Initiatives of the Commission on Human Rights, States and non-governmental organizations

## A. Commission on Human Rights

103. This year, the Commission on Human Rights took two initiatives concerning the mandate of the Special Rapporteur: firstly, as regards the World Conference against Racism and, secondly, as regards the question of defamation of religions.

104. As regards the World Conference against Racism, paragraph 63 (c) of resolution 1999/78 entitled "Racism, racial discrimination, xenophobia and related intolerance" requests the High Commissioner for Human Rights to invite the Special Rapporteur on religious intolerance to participate actively in the preparatory process and in the World Conference by initiating studies on action to combat incitement to hatred and religious intolerance. Paragraph 7 of resolution 1999/39 entitled "Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief" invites the Special Rapporteur to contribute effectively to the preparatory process for the World Conference to be held in 2001 by forwarding to the High Commissioner his recommendations on religious intolerance which have a bearing on the World Conference". It should also be noted that resolution 1999/82 entitled "Defamation of religions" expresses concern at any role in which the print, audio-visual or electronic media or any other means is used to incite acts of violence, xenophobia or related intolerance and discrimination towards Islam and any other religion and called upon the Special Rapporteurs on religious intolerance and on racism, racial discrimination, xenophobia and related intolerance to take into account the provisions of the resolution when reporting to the Commission on Human Rights.

105. In accordance with the resolutions summarized above, the Special Rapporteur has already recommended the following studies:

**Image of religious minorities in the media**

106. As explained by the Special Rapporteur, in several mission reports (Germany E/CN.4/1998/6/Add.2; United States of America E/CN.4/1999/58/Add.1), the media, and in particular the popular press, all too often portrays matters relating to religion and belief in particular religious minorities, in a grotesque, not to say totally distorted and harmful light. The Special Rapporteur has recommended starting a campaign to develop awareness among the media on the need to publish information that respects the principles of tolerance and non-discrimination. These measures would also make it possible to educate and shape public opinion in accordance with these principles. The study would therefore identify the role of the media in hatred and religious intolerance vis-à-vis religious minorities, their responsibilities and would recommend preventive measures, including action to be taken under the Office of the High Commissioner for Human Rights advisory services programme.

**Intolerance against ethno-religious communities: identification and measures**

107. The study would identify main factors of intolerance against ethno-religious communities, its manifestations and would recommend measures to combat and prevent them.

108. The Special Rapporteur is also encouraging research on ways in which intolerance and discrimination based on religion or belief impact racial discrimination. In this connection, the recommendation of the representative of the Holy See, made during the preparatory process to the Conference against Racism, is very sound: "There is a need to go deeper than historical, cultural, political or social contexts and to identify and understand the spiritual and moral dimensions which underlay the universal human condition and in particular those aspects of it leading to abuses of racial discrimination."

109. The Special Rapporteur of course wishes the necessary resources to be made available to him for the preparation of these studies.

110. As regards defamation of religions, the Commission on Human Rights adopted resolution 1999/82 entitled "Defamation of religions" (see above, paras. 104 and 107), in which it expresses deep concern at negative stereotyping of religions, also expresses deep concern that Islam is frequently and wrongly associated with human rights violations and with terrorism, expresses its concern at the role of the media and calls upon the Special Rapporteur on religious intolerance to take into account the provisions of

the present resolution when reporting to the Commission on Human Rights.

111. The Special Rapporteur shares the Commission's concern about any threat to religions through defamation. As the Commission very rightly pointed out, all religions are or may be affected by this violation. For this reason, as shown in the Special Rapporteur's mission reports [Pakistan (E/CN.4/1996/95/Add.1) and Sudan (A/51/542/Add.2)] and in the information obtained from States regarding their legislation concerning freedom of religion and belief (para. 101 above), most States have incorporated provisions to punish defamation (for example, blasphemy) in their legal, constitutional, legislative and penal systems, on the understanding that there must be a precise definition of this offence, a specific legal system and an appropriate system of proof.

112. This concern was also expressed in intergovernmental regional organizations. For example, in its recommendation 1996 (1999) entitled "Religion and democracy", the Council of Europe stated: "Many conflicts also arise from mutual ignorance, the resulting stereotypes and, ultimately, rejection. In a democratic system, politicians have a duty to prevent a whole religion from being associated with actions carried out for instance by fanatical religious minorities." Similarly, OSCE, at its Supplementary Human Dimension Meeting: Freedom of Religion (Vienna, 22 March 1999) identified in its annotated agenda, in the part entitled "Religious pluralism and limitations on freedom of religion": "Problems encountered by new and minority religions, for example actions that create harmful stereotypes and promote prejudice against religious minorities".

113. The Special Rapporteur has also found that religious, particularly Muslim, minorities were the butt of prejudice and stereotyping. This finding therefore echoes paragraph 2 of resolution 1999/82. In this connection, and in accordance with paragraph 3 of that resolution, the Special Rapporteur has described in his mission reports on Australia (E/CN.4/1998/6/Add.1), Germany (E/CN.4/1998/6/Add.2) and the United States (E/CN.4/1999/58/Add.1) the association of Islam with religious extremism and terrorism found in the media and particularly in the popular press. Recommendations have been made on this subject (see mission reports and para. 102 above).

114. The Special Rapporteur naturally acknowledges the danger represented by the extremism of groups claiming allegiance to Islam. However, it is important to distinguish between such extremists using Islam for political purposes, who are in fact in the minority, and the majority of Muslims practising Islam in accordance with the principles of tolerance and non-discrimination.

115. The Special Rapporteur has also found that non-Muslim religious minorities were victims of defamation, as shown in his reports on missions to Pakistan and to the United States.

116. The Special Rapporteur believes that it is important to indicate that defamation and stereotyping may stem from intolerance and/or inter-religious and also intra-religious ignorance but that they usually exist in the context of an adversarial relationship between majority and minorities.

117. Lastly, it should be emphasized that there are growing problems between traditional majority religions and sects/new religious movements but also between believers and non-believers.

118. The Special Rapporteur also wishes to stress another concern relating to efforts to combat defamation: these should not be used to censure all inter-religious and intra-religious criticism or even as a means of repression against minorities in the area of religion and belief. For example, the legislation on blasphemy in Pakistan is used, principally by extremists, in order to repress the Ahmadi and Christian minorities. By this legislation, the State also forbids Ahmadis to claim allegiance to Islam (see mission report on Pakistan and communications on Pakistan in the general reports). Several other communications from the Special Rapporteur, particularly the one on Bangladesh concerning Taslima Nasreen, illustrate the danger that efforts to combat defamation (particularly blasphemy) may be manipulated for purposes contrary to human rights.

119. Mindful of the concerns which have been expressed by the Commission on Human Rights and which he himself has voiced, the Special Rapporteur will continue to devote special attention to the question of defamation and to formulate recommendations.

## B. Initiatives by States and non-governmental organizations

120. The Special Rapporteur wishes to thank Norway and the Holy See for the voluntary contributions made for the fulfilment of his mandate.

121. He welcomes the fact that a number of States are taking the initiative of transmitting to him information relevant to his mandate, particularly Belgium and Egypt this year.

122. The Special Rapporteur also thanks non-governmental organizations for their initiatives, including the organization of conferences on subjects related to freedom of religion and belief, sending of books and all other relevant documentation and sharing of their expertise in specific areas.

## V. *In situ* visits and follow-up

123. In accordance with the resolutions of the Commission on Human Rights and of the General Assembly, the Special Rapporteur continued his efforts with respect to *in situ* visits. Two reports issued in 1999 dealt with visits made to the United States of America and Viet Nam during 1998; thus, the Special Rapporteur has carried out 10 missions since his appointment (see table 1 below). He plans to visit Turkey in December 1999. Unfortunately, as shown by table 2, the Governments of four States (Indonesia, Israel, Mauritius and the Russian Federation) which the Special Rapporteur has requested permission to visit (in some cases, as long ago as 1996) still have not replied. The Special Rapporteur has reminded these States of the need for cooperation, as stressed in Commission on Human Rights resolution 1999/39, paragraph 9, which "calls upon all Governments to cooperate fully with the Special Rapporteur on religious intolerance, to respond favourably to requests from the Special Rapporteur to visit their countries and to give serious consideration to inviting the Special Rapporteur to visit so as to enable him to fulfil his mandate even more effectively". In 1999, he addressed requests for *in situ* visits to Argentina, Bangladesh and the Democratic People's Republic of Korea.

124. In addition to his requests for permission to make *in situ* visits and to conduct them in the field, the Special Rapporteur has continued his mission follow-up procedure, established in 1996, in order to elicit comments from States and information concerning measures planned or taken on the basis of the recommendations made in the mission reports. As seen in table 3, follow-up tables were sent to Australia and Germany in 1999; no reply has been received to date. Furthermore, it should be noted that Viet Nam submitted a preliminary reply (E/CN.4/1999/156) to the Special Rapporteur's mission report to the Commission on Human Rights at its most recent session. While awaiting the more detailed reply which the Government has promised to submit, the Special Rapporteur will soon send follow-up tables to both Viet Nam and the United States of America.

**Table 1**

| *Country* | *Period* | *Report* |
|---|---|---|
| China | November 1994 | E/CN.4/1995/91 |
| Pakistan | June 1995 | E/CN.4/1996/95/Add.1 |
| Iran (Islamic Republic of) | December 1995 | E/CN.4/1996/95/Add.2 |
| Greece | June 1996 | A/51/542/Add.1 |
| Sudan | September 1996 | A/51/542/Add.2 |
| India | December 1996 | E/CN.4/1997/91/Add.1 |
| Australia | February-March 1997 | E/CN.4/1998/6/Add.1 |
| Germany | September 1997 | E/CN.4/1998/6/Add.2 |
| United States of America | January-February 1998 | E/CN.4/1999/58/Add.1 |
| Viet Nam | October 1998 | E/CN.4/1999/58/Add.2 |

**Table 2**

| *Country* | *Date of request* | *Reminders* |
|---|---|---|
| Indonesia | 1996 | X |
| Mauritius | 1996 | X |
| Israel | 1997 | X |
| Russian Federation | 1998 | X |
| Argentina | 1999 | |
| Bangladesh | 1999 | |
| Democratic People's Republic of Korea | 1999 | |

125. The Special Rapporteur considers *in situ* visits and follow-up to be one of the best means of gathering information on the situation prevailing in a State and on how far it has progressed in ensuring freedom of religion and belief at the legal, political and de facto levels and within the framework of a balanced examination of gains and deficiencies with regard to the 1981 Declaration. They constitute an impartial, objective instrument for an analysis that will benefit the Special Rapporteur, the State to which the visit was made and all parties concerned, namely, non-governmental organizations (NGOs) and individuals, and especially victims, involving each of them in this process of dialogue, exchange and mutual assistance.

**Table 3**

| *Country* | *Date of submission of follow-up table* | *Reply* |
|---|---|---|
| China | 1996; A/51/542 | 1996; A/51/542 |
| Pakistan | 1996; A/51/542 | 1997; A/52/477/Add.1 |
| Iran (Islamic Republic of) | 1996; A/51/542 | No reply |
| Greece | 1997; A/52/477/Add.1 | 1997; E/CN.4/1998/6 |
| Sudan | 1997; A/52/477/Add.1 | 1997; A/52/477/Add.1 |
| India | 1997; A/52/477/Add.1 | 1998; A/53/279 |
| Australia | 1998; E/CN.4/1999/58 | Reply not yet received |
| Germany | 1998; E/CN.4/1999/58 | Reply not yet received |

126. This year, the Special Rapporteur decided that in addition to his "traditional" visits, he would visit the major religious communities in order to establish a direct dialogue on the subject of the 1981 Declaration and on all issues relating to freedom of religion or belief and to consider solutions to whatever problems of intolerance and discrimination might arise. In September 1999, the Special Rapporteur will visit the Holy See.

127. The Special Rapporteur also decided to visit the main intergovernmental institutions working directly or indirectly in the area of tolerance and of discrimination based on religion or belief. Accordingly, he visited the headquarters of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 1999 and decided to strengthen his cooperation with that agency. He also plans to visit the Organization for Security and Cooperation in Europe (OSCE) to discuss arrangements for mutual cooperation.

# VI. Conclusions and recommendations

128. A study of the communications sent in the context of this report and of the Special Rapporteur's mission reports for 1999 reveals several general trends: an increase in religious extremism, the continued existence of policies adversely affecting freedom of religion and belief and the persistence of discrimination against women. The Special Rapporteur has tried to trace the development of each of these trends.

## A. Religious extremism

129. As in his previous reports, the Special Rapporteur notes the persistence of various types and degrees of Islamic extremism (particularly in Afghanistan, Bangladesh, Indonesia, Niger and Pakistan). However, it is evident that this phenomenon has spread to other religions, as seen by the rise in Hindu extremism directed against Christian and Muslim communities and, potentially, against religious minorities in India and even in Nepal. The Muslim extremism which broke out in Indonesia has also, in some cases, led to violent counter-attacks by Christian extremists. Judaism may also be subjected to distortion in Israel by Jewish extremists. Thus, no religion is free from extremism: it may be inter-religious (directed against religious communities of different faiths), intra-religious (within the same religion and, in particular, between different sects) or even both at once. The most striking example is that of the Taliban, who, in the name of religion, are persecuting not only non-Muslim minorities, but also Muslims: both Afghan Muslim minorities (i.e., the Shiites) and the Muslim majority subject to the Taliban's diktat. The most common victims of the various types of extremism are:

(a) Minorities (both the followers of other religions and different groups within the same religion) are usually the preferred targets of extremists (in, for example, Afghanistan, India, Indonesia, Israel, Niger and Pakistan); of course, this does not preclude potential or actual persecution of the majority;

(b) Women are also a prime target of extremists, whether through discriminatory measures that place them in an inferior position and even (in the case of Afghanistan) deprive them of all rights; or, with increasing frequency, through violence in the form of assault, attempted murder, murder, abduction and, in many cases, rape. Violence against women appears to be extremists' instrument of choice as a means of terrorizing whole communities through, *inter alia*, attacks on women's dignity and on the "honour" of the entire community.

130. In addition, extremism is often practised by non-State entities. These may be groups acting out of pure fanaticism associated with ignorance or obscurantism or extremist religious groups with a deliberate plan to impose their religious interpretation on the whole of society. In most cases, however, they are extremist "professionals" who use religion for political purposes — in other words, in order to seize power. However, it must be acknowledged that these non-State entities do not operate in a vacuum and that in almost every case, they continue to exist and to grow with

the tacit but known support of Governments, including foreign Governments.

131. Lastly, religious extremism should be viewed in the larger context of the economic, social and political conditions that foster it. At the national and international levels, unjust economic, social and political systems which really constitute violations of economic, social, cultural, civil and political rights contribute to the birth and/or nurturing of extremism.

## B. Policies adversely affecting freedom of religion and belief

132. The Special Rapporteur notes the persistence of such policies and considers that the following developments at the national level need to be recognized:

(a) State policies against religion and policies designed to control religious matters in the name of a political ideology have continued to decline since the end of the cold war; although they do persist in some countries (China, Democratic People's Republic of Korea, Viet Nam), but in more subtle forms. Officially and publicly, at least, it is no longer a question of eliminating religions originally perceived as superstitions or as "the opium of the people", but rather of recognizing them and permitting their practice, but under the strict control of the authorities. In the circumstances, this constitutes interference with religion that is incompatible with international law. In most cases, such interference takes the form of compelling the clergy and believers to limit their activities to officially-recognized, State-controlled religious groups, places of worship and religious institutions. These policies include, on the one hand, those of States (such as China and Viet Nam) where the limited opportunity for freedom of religion, although it should be expanded in accordance with international law, nevertheless constitutes progress; and, on the other, that of a State (Democratic People's Republic of Korea) which uses a semblance of religion for propaganda purposes abroad;

(b) Authoritarian regimes continue to implement policies of intolerance and discrimination against communities perceived as "the enemy", as "a threat" or as inconsistent with the Government's programme;

(c) Conflicts of a primarily political nature continue to result in policies and practices of intolerance and discrimination against certain ethnic and religious groups (i.e. the Israeli Government's policy with respect to non-Jewish groups in Jerusalem and the Chinese Government's policy in the Tibet Autonomous Region of China);

(d) States which have an official religion or where most of the population belong to the same religion tend to implement discriminatory policies and measures (such as restrictions on religious activities and the manifestations thereof) against religious minorities, including Muslims in many Western, and some African, countries and non-Muslims in several Asian and African countries;

(e) A growing problem common to almost all States is that the policies and measures implemented with respect to sects or new religious movements often involve numerous human rights violations, including refusal to recognize them as religious communities; refusal to allow them to register; barring the members from places of worship; failure to recognize certain of their tenets, such as conscientious objection; and, in some cases, even arrest, detention and other punishments. Many of the communications received by the Special Rapporteur involve the countries of Eastern Europe, where large numbers of such groups have emerged since the end of the cold war and are in direct competition with the so-called "traditional" religions which hope to resume the role that they played prior to the establishment of the socialist bloc, not only in society but also in the Government. However, this is also a problem in Western Europe, where several parliamentary commissions of enquiry have been established. On the other continents, Governments sometimes react with extreme severity. For example, in Pakistan, the Ahmadis claim to be Muslims but are considered a sect by the authorities, which categorically reject this claim and punish them severely, whereas in China, members of the Falun Gong have been arrested.

## C. Discrimination attributed to religion and affecting women

133. In the context of the communications transmitted by the Special Rapporteur, such discrimination relates to legislation, civil status texts and their interpretation, tradition, intolerance often through ignorance on the part of society, and so-called religious extremism.

134. As regards legislation, most of the discrimination derives from the requirement that women receive the authorization of men to obtain a passport and to travel abroad (Gabon, Kuwait, Saudi Arabia, Yemen). In Saudi Arabia, such freedom of movement appears to be restricted, even non-existent, given that a woman going abroad to study has to be accompanied by a family member, that women are prohibited from driving motor vehicles and that access to buses and public facilities is subject to segregation. Legislation may also discriminate in favour of men in

divorce proceedings (Bangladesh, Brunei Darussalam), custody of children (Brunei Darussalam) and testimony, the evidence of one man being equivalent to that of two women (Kuwait, Saudi Arabia). In Kuwait a Muslim woman would not be allowed to marry a non-Muslim. Lastly, legislation may require that women be dressed in a certain way. The most manifest and insidious case in which women are deprived totally of their rights results from legislation which recognizes the transmission of citizenship to children only through the male line.

135. The interpretation by the courts of civil status texts relating principally to the family (marriage, divorce, etc.) also appears to affect women in many instances by placing them in an unfavourable situation, whether they are Muslim (India, Israel, Kuwait), non-Muslim, Jewish (Israel) or Christian (India, Malaysia).

136. Traditions attributable to religion are very often an obstacle to the implementation of legislation that treats women more fairly. Accordingly, in India the legally prohibited suttee and dowry traditions persist in some rural areas. In Djibouti the prior consent of a man for any travel abroad by a woman appears to be maintained by tradition, while in Turkmenistan the religious authorities seem to invoke tradition in order to instil in their followers an archaic perception of women.

137. Society can be a source of intolerance principally because, through ignorance or obscurantism, certain discriminatory attitudes towards women are associated with religious precepts. In Pakistan, for example, a woman who has converted to Christianity may find herself ostracized and rejected by society.

138. Women are the prime target of the evil known as religious extremism. The State's responsibility to eradicate violations in this field is established in international law and must be fully exercised.

139. To sum up, despite some limited progress in matters of freedom of religion and belief, especially since the end of the cold war, the Special Rapporteur finds not only that manifestations of intolerance and discrimination based on religion and belief persist but also that religious extremism is on the rise. Apart from society in general, persons particularly affected are women and those professing a minority religion or belief.

140. The Special Rapporteur believes, that in order to deal with the above situation, it is essential to focus on prevention, while, of course, maintaining ongoing measures to counter current violations.

141. As the Special Rapporteur has stressed, preventive action should focus chiefly, although not exclusively, on education. It will be recalled that the Commission on Human Rights in resolution 1999/39 on the mandate of the Special Rapporteur urged States to promote and encourage, through education and other means, understanding, tolerance and respect in matters relating to freedom of religion or belief.

142. The Special Rapporteur is therefore continuing his project for the formulation of an international educational strategy to prevent all forms of intolerance and discrimination based on religion or belief, the matrix of which would be the organization in November 2001 of an international consultative conference on the content of curricula and textbooks for primary or elementary and secondary educational institutions with respect to freedom of religion and belief.

143. Prevention through education can also address the current evils of religious extremism and acts of discrimination and intolerance directed specifically at women and minorities.

144. Religious extremism, it must be stressed, spares no society and no religion. It is a perversion of religious faith and an insult to the intelligence of a human being. To tolerate this growing phenomenon is akin to tolerating the intolerable. It is therefore essential that States join with the international community in condemning it without ambivalence and combating it without compromise. Such an effort must undoubtedly include preventive action, especially through education. The initiatives of Egypt in this regard are extremely noteworthy and include books on tolerance for children and adolescents and the modernization of centres for consciousness-raising, training and further training whose purpose is to ensure integration in society and hence to combat all acts of exclusion and erection of barriers, the favourite devices of extremism.

145. Women's actual status from the standpoint of religion, or of the traditions, practices and policies based on or attributed to religion, represents a problem which must be tackled. The preparation of a plan of action combining both prevention, for example through education, and measures to combat discrimination must be initiated as soon as possible, including through the organization of a seminar on the status of women from the standpoint of religion and human rights, as the Special Rapporteur suggested earlier.

146. As regards minorities, it will be recalled that the Commission on Human Rights, in resolution 1999/39, expressed its deep concern at the increase in the violence and discrimination against religious minorities, including restrictive legislation and arbitrary application of legislative

and other measures. The Commission urged States, in conformity with international standards of human rights, to take all necessary action to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, with particular regard to religious minorities. In addition to prevention through the elaboration of an international educational strategy to combat all forms of intolerance and discrimination based on religion or belief, which would of course address the question of religious minorities, the Special Rapporteur wishes to underline the vital role played by the Working Group on Minorities (of the Subcommission on the Promotion and Protection of Human Rights) in the consideration of the promotion and observance of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the exploration of possible solutions to problems affecting minorities and the formulation of recommendations for the adoption of new measures to ensure the promotion and protection of their rights. The Special Rapporteur might want to contact the Working Group in order to consider possible avenues of cooperation in such matters as seeking solutions for acts of discrimination and intolerance affecting religious minorities.

147. Where sects or new religious movements are concerned, the Special Rapporteur considers that the time has come to initiate appropriate methods for examining this question calmly, without emotion and without bias, in such a way as to ensure that freedom of religion and belief is not manipulated and is permitted to serve the purpose which justified its legal consecration and protection, and to serve that purpose alone. As "sects" or "new religious movements" do sometimes commit abuse, the authorities are right to be concerned and it is their duty to take action to enforce the law. This duty must lead to the application of penal law, and even its improvement, in order to penalize any abuse of property or person. This does not mean that the State should conduct a witch-hunt which would breed intolerance and discrimination and would contravene international law. Education can also play a vital role in relation to such abuse. As Danièle Hervieux-Léger, the sociologist, stated, the best remedy is common sense, discernment and the inculcation of a critical spirit. The Special Rapporteur reiterates his recommendation for a comprehensive study of the question (with the caveat that "sect" and "new religious movement" both cause difficulties in that they lump together various situations, thereby resisting serious analysis).

148. As regards all the problems discussed above (religious extremism, policies affecting freedom of religion and belief, discrimination attributed to religion and affecting women), the Special Rapporteur is of the opinion that religions are very often taken advantage of. It is therefore important to promote further the role which religions can play in conflict prevention and resolution and in reconciliation. In this regard, the Special Rapporteur welcomes the initiative taken in July 1999 by 40 representatives of the Orthodox, Catholic, Protestant, Muslim and Jewish religions to ensure the participation of religions in the dialogue and peace effort in the Balkans. In their final declaration, these religious leaders undertook to promote or encourage every effort to promote education, tolerance and social justice and to combat discrimination.

149. Manifestations of racism, racial discrimination, xenophobia and intolerance may overlap with manifestations of intolerance and discrimination based on religion and conviction. As requested by the Commission on Human Rights, the Special Rapporteur, in his contribution to the World Conference against Racism, should be able to help identify solutions designed to prevent and eradicate such evils.

150. In accordance with the principle of interdependence of human rights, any action to promote tolerance and non-discrimination is intrinsically interrelated with action to promote democracy and development.

151. The effectiveness of activities to combat and prevent every kind of violation and abuse against freedom of religion and belief requires the following changes.

152. As regards the change in the title of his mandate, the Special Rapporteur is gratified that the Commission on Human Rights, in resolution 1999/39, noted "the request of the Special Rapporteur to change his title from Special Rapporteur on religious intolerance to Special Rapporteur on freedom of religion or belief" and decided "to consider, at its fifty-sixth session, changing the title". The Special Rapporteur very much hopes that this change will be approved in order to lend more weight to his mandate while maintaining his function in relation to incidents and governmental measures incompatible with the 1981 Declaration, to take account of the content of resolutions which concern him and to give freedom of religion and belief the scope it deserves.

153. The strengthening of the human and material resources made available to the Special Rapporteur is required not only for him to discharge the many daily activities of the office (communications, *in situ* visits, reports, consultations with international organizations, States and non-governmental organizations, participation in conferences, etc.) but also for the implementation of his recommendations, including the preparation of studies, the establishment of an international

compendium of enactments, the creation of an Internet site on the 1981 Declaration (including legal and factual data banks on all States), the drafting of reports on all States and all religions and beliefs, together with an analysis of their economic, social, cultural, civil and political contexts. Lastly, the Special Rapporteur considers that preparations should be made for the twentieth anniversary of the 1981 Declaration on 25 November 2001. It is proposed that States give the name of tolerance to streets, squares and public buildings, place artistic plaques in public places bearing the text of the Declaration, and include the Declaration in civic and religious educational curricula, especially at the primary and secondary levels of education.